UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1997/8
25 October 1996

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-third session
Item 10 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Situation of human rights in the territory of the former Yugoslavia

Special report on minorities

Periodic report submitted by Ms. Elisabeth Rehn, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 45 of Commission resolution 1996/71

CONTENTS

	Paragraphs	Page
Introduction	1 - 9	3
Chapter		
I. SITUATION OF MINORITIES IN THE FORMER SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA	10 - 16	5
II. SITUATION OF MINORITIES IN THE FEDERAL REPUBLIC OF YUGOSLAVIA	17 - 100	7
A. Background	17 - 19	7
B. National and international legal standards	20 - 29	8
C. The situation in Kosovo	30 - 56	10
D. Vojvodina	57 - 74	16

GE.96-14177 (E)

CONTENTS (continued)

		Paragraphs	Page
	E. The situation in Sandzak	75 - 92	20
	F. The Bulgarian community	93 - 94	24
	G. The situation of minorities in the Republic of Montenegro	95 - 100	24
III.	SITUATION OF MINORITIES IN THE REPUBLIC OF CROATIA	101 - 144	26
	A. Background	101 - 105	26
	B. National and international legal provisions	106 - 122	27
	C. The situation of Serbs currently in Croatia	123 - 132	31
	D. The situation of other minorities in Croatia	133 - 140	34
	E. Conclusions and recommendations	141 - 145	36
IV.	GENERAL CONCLUSIONS AND RECOMMENDATIONS	146 - 152	37

Introduction

1. The causes of the conflict which has tormented the former Yugoslavia for the past five years are complex. Personal ambition, competition for resources, historical grievances, propaganda - all of these have been factors provoking fighting during which the most shocking human rights violations in Europe in nearly 50 years took place. But one cause of the many-sided war is absolutely clear: the failure of the former Yugoslavia's political leadership to meet the challenge of governing populations which do not share the nationality, ethnicity, religion or language of their region's dominant national group. These smaller populations, referred to in this report as "minorities", have persistently voiced resentment, fear and anger over the policies of the region's Governments which have not, in their view, respected the right of all people to express and sustain their group identities. Minorities' aspirations, and Governments' reactions to them, have led to much of the violence and many of the human rights violations which have taken place in recent years in the territory of the former Yugoslavia.

2. In response to charges that they are seeking to secure dominance by one ethnic group over others, or even to attain ethnically "pure" States, the region's Governments point to a range of legal measures they say have been taken to ensure minority rights. Such measures include constitutional and other domestic legislation, as well as accession to various international instruments. These steps have not, however, significantly calmed inflamed feelings or eased the ever-present threat of conflict. Governments continue to be accused of marginalizing or repressing minority populations, and even of attempting to drive them from their States' territories altogether. At the very least, one must conclude that the participation of minority peoples in public affairs throughout the region is limited, as is their access to many of the benefits of citizenship. In some instances the law fails to provide adequate opportunities for minorities to fully exercise their rights, while in others the law is unenforced, misapplied or ignored. Both of these situations have led to a continuing high state of tension.

3. The Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia has paid particular attention to the question of minorities since assuming her post in September 1995. During the past year she has made numerous visits to regions, municipalities, and even neighbourhoods where the predominant local population is of a different national or ethnic group from that which controls, either de jure or de facto, the surrounding territory. The pain and uncertainty suffered by the people she has met in these places are unmistakable. If security is one of the cornerstones upon which human rights are built, then in many parts of the former Yugoslavia minorities lack even a foundation on which to build their lives.

4. The Special Rapporteur considers that progress in the protection of minorities is now one of the most urgent human rights needs in the territory covered by her mandate, and it is for this reason that she submits the present report. The report is not an exhaustive examination of the situation of minorities throughout the territory of the Special Rapporteur's mandate.

Indeed, it may be observed that in one of the countries, Bosnia and Herzegovina, the term "minority" is acutely unsatisfactory since no one national group constitutes a majority of the State's population. She has therefore decided to avoid a detailed analysis of all of the numerous and complicated situations in which one population finds itself somehow subordinate to a neighbouring larger group. Instead, the report concentrates on two countries dominated by people of one national group: the Federal Republic of Yugoslavia, which is populated mainly by Serbs, and the Republic of Croatia, which is predominantly Croat. The Special Rapporteur is of the view that the approaches taken to minority questions by the Federal Republic of Yugoslavia and Croatia are of pre-eminent importance not only for the security of these countries' own minority populations, but for the human rights of all people in the region, and for the maintenance of peace.

5. The report draws largely on the personal observations of the Special Rapporteur herself during her visits to the region. Since her appointment one year ago the Special Rapporteur has undertaken nine missions to the territory and, as noted above, has spent time in many areas with minority populations. Her impressions and the conclusions derived from these visits form the major part of the report. The report also considers important legislation which has either been enacted or which could be enacted to promote protection of the human rights of minorities, as well as political initiatives directed towards the same end. Significant recent events, including instances of serious human rights violations, are detailed in the report.

6. The report takes into consideration the international law on minority rights comprising all or parts of various instruments, including the International Covenant on Civil and Political Rights, 1/ the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child, the European Convention for the Protection of Human Rights and Fundamental Freedoms and the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted by the General Assembly in 1992. The Special Rapporteur further wishes to recall pertinent resolutions of the Commission on Human Rights and the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities, as well as reports of the High Commissioner for National Minorities of the Organization for Security and Cooperation in Europe. The Special Rapporteur wishes especially to highlight the constructive work of the Sub-Commission's Working Group on Minorities, established in 1995, and has taken special note of the recommendations to the Sub-Commission on the question of minority protection submitted in 1993 by Sub-Commission member Mr. Asbjørn Eide.

7. The Special Rapporteur would like to emphasize her commitment to the principles, enshrined in the Charter of the United Nations, that all States are equal in sovereignty and that their territorial integrity shall be secure from the threat or use of force. In the interest of peace, the Special Rapporteur is convinced that internationally recognized boundaries, including those of the countries of the former Yugoslavia, must be respected. She believes that while members of minority populations possess inalienable rights, they also have solemn duties with respect to the States in which they

live. Nevertheless, it is clear that the Governments of the territory of the former Yugoslavia have the imperative responsibility to take new measures to promote the protection of minority rights, and indeed are well advised to do so, even if for no other reason than to ensure the lasting integrity of their States' borders.

8. The report first briefly considers the situation of national groups in the former Socialist Federal Republic of Yugoslavia, and then studies in depth the situations in the Federal Republic of Yugoslavia and the Republic of Croatia. Conclusions and recommendations are offered throughout the report, and general conclusions and recommendations are found in the report's final section.

9. The Special Rapporteur is indebted not only to the numerous interlocutors named throughout the report, but to academic authorities and studies, including materials published by the London-based Minority Rights Group. 2/

I. SITUATION OF MINORITIES IN THE FORMER SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA

10. To better understand the present situation of minority populations in the former Yugoslavia, it is useful to recall some aspects of the unique and complex approach to nationality taken by the predecessor State in the region, the Socialist Federal Republic of Yugoslavia (SFRY). The sovereign identity of the SFRY was based both on federalism and on a liberal dispensation of autonomy among republics and provinces which conformed with the geographical concentrations of different national groups. The SFRY was a federation of republics, each of which (with the exception of Bosnia and Herzegovina) was populated predominantly by people of a single national group. The republics were Serbia (populated predominantly by Serbs), Croatia (Croats), Macedonia (Macedonians), Montenegro (Montenegrins), Slovenia (Slovenes), and Bosnia and Herzegovina (dominated by no national group, but with a plurality of Muslims and large populations of Serbs and Croats). The Socialist Republic of Serbia, furthermore, included two "autonomous provinces", created partly owing to their large non-Serb populations. To the north was Vojvodina (an ethnically diverse region with, in 1991, a slim Serb majority, but with substantial Hungarian, Croat and other populations), and to the south was Kosovo (with a large majority of ethnic Albanians, although they were a minority in the context of the Socialist Republic of Serbia as a whole.

11. Article 1 of the SFRY Constitution described the State as "having the form of a state community of voluntarily united nations and their Socialist Republics, and of the Socialist Autonomous provinces of Vojvodina and Kosovo". The reference to "nations" (in the original Serbo-Croatian version, narodi) and the connection between "nations" and "their Socialist Republics" is of particular significance. Nations in the SFRY corresponded to peoples having "their own" republics, that is, republics defined by the narodi which formed the majorities of their populations (Serbs, Croats, Slovenians, Macedonians and Montenegrins). 3/ They were differentiated under the Constitution from "nationalities" (narodnosti) who were, broadly speaking, all other minorities, whose kinfolk in most cases formed the majority of and defined neighbouring

States (e.g., Hungarians, Albanians, Italians). Nations of the SFRY were considered to be "constituent nations", the foundation of the Federation, members of which held (or were believed to hold) certain advantages throughout its territory. Indeed, one of the Basic Principles of the Constitution of the SFRY emphasized the right of every nation of self-determination, including the right to secession. The nation-based republics had substantial authority over matters within their borders, although such authority could not be exercised in contravention of federal law. Each of the republics (as well as the provinces) had a presidency, a legislative assembly, a court system, and the power to confer republican citizenship. 4/

12. The exceptional status of nations in the SFRY may help to explain the reactions of some members of nations who, after the dissolution of the SFRY found themselves in a significantly changed situation. Serbs in Croatia, for example, who, under the Constitution of the Socialist Republic of Croatia, had been a "constituent nation" of the republic on the same level as Croats, found themselves grouped by the new Constitution of the Republic of Croatia, adopted in 1991, with other national groups as "other peoples and minorities". They reacted by attempting to exercise their national right of secession as guaranteed in the Constitution of the SFRY.

13. The term "national minorities" appeared only once in the SFRY Constitution, referring in essence only to members of "constituent nations" who found themselves minorities in neighbouring States. The SFRY made significant efforts to advance the rights of these people, and of minorities generally, through several international initiatives including the submission of a draft declaration on the rights of national, ethnic, linguistic and religious minorities and taking the position that the Helsinki Final Act of the Conference on Security and Cooperation in Europe should contain references to minorities. 5/

14. The peoples who were part of the populations of the "autonomous provinces" - Vojvodina and Kosovo - as well as other minority groups were considered "nationalities"; nations and nationalities were accorded equal rights by the Constitution of the SFRY. Nationalities had "the right to use their language and alphabet in the exercise of their rights and duties" (art. 171). Discrimination on the basis of nationality (as well as of race, sex, language, religion, education or social status) was prohibited. Advocating national inequality and incitement of national, racial or religious hatred and intolerance were unconstitutional and punishable. Freedom of religion for all citizens was guaranteed. The provinces themselves were proclaimed to be "constituent parts" of the Socialist Republic of Serbia and they exercised considerable influence at the federal level through their inclusion in high-level bodies, including the Federal Presidency.

15. Although it survived for more than 40 years, the SFRY ultimately disintegrated, starting with the proclamations of independence of the Republics of Croatia and Slovenia in 1991. These were followed by similar proclamations by the Republics of Bosnia and Herzegovina and Macedonia. The Federal Republic of Yugoslavia, comprising the remaining Republics of Serbia and Montenegro, acquired a different legal framework in 1992 with the adoption of a new Constitution. Two years before, the Socialist Republic of Serbia had

altered the status of its "constituent parts", the autonomous provinces of Vojvodina and Kosovo, by significantly reducing aspects of their autonomy. A new panorama thus presented itself in the territory of the former Yugoslavia at the beginning of the 1990s.

16. The General Framework Agreement for Peace in Bosnia and Herzegovina (the Dayton Agreement) and the Basic Agreement on the region of Eastern Slavonia, Baranja and Western Sirmium in Croatia, both concluded in late 1995, have now brought peace and an opportunity for a more considered look at the question of minority protection throughout the territory of the former Yugoslavia. The immediate outlook for the protection of minorities in the Federal Republic of Yugoslavia and the Republic of Croatia has been considerably brightened by the Agreement on the Normalization of Relations between these two countries, signed at Belgrade in August 1996. It is fervently hoped that the fate suffered by the SFRY can, and will be, avoided by the States now existing in the region.

II. SITUATION OF MINORITIES IN THE FEDERAL REPUBLIC OF YUGOSLAVIA

A. Background

17. Following a general discussion of the legal framework for minority protection of the Federal Republic of Yugoslavia (FRY), the present study will consider the situation of minorities in the country, focusing on the largest groups. The demographic situation of the FRY is described briefly below. The Special Rapporteur has taken into consideration information received from government authorities during her missions, as well as the "Report on the Status of National Minorities in the Federal Republic of Yugoslavia" submitted in May 1996 by the Federal Ministry of Justice. The Special Rapporteur is grateful to numerous local non-governmental organizations which have provided her with information and analysis including, in Belgrade, the Humanitarian Law Centre, the Belgrade Centre for Human Rights, the Helsinki Committee for Human Rights in Serbia and the Centre for Anti-War Action; in Podgorica, the Montenegrin Helsinki Committee for Human Rights; in Pristina, the Council for the Defence of Human Rights and Freedoms in Pristina; and in Novi Pazar, the Helsinki Committee for Human Rights in Sandzak.

18. The Federal Republic of Yugoslavia (FRY), composed of the Republics of Serbia and Montenegro, is a multi-ethnic society made up of a large number of different ethnic, national and linguistic groups which have lived together for centuries. Demographic data from the most recent census show that in 1991, about 67 per cent of the country's total population of 9.8 million were Serbs and Montenegrins, while the rest belonged to more than 30 different minority groups. (The second largest group was Albanians, constituting some 17 per cent of the population, 6/ followed by Hungarians comprising about 3.5 per cent). Population movements in and out of the country over the last five years have changed these proportions to some extent. Most notable among these movements have been the arrival of between 150,000 and 200,000 Croatian Serb refugees from Croatia in 1995, and the departure of thousands of non-Serbs since 1991 owing to tensions and violence connected to the conflicts in Bosnia and Herzegovina and Croatia.

19. In the Republic of Serbia the largest minority groups live mainly in three areas. The great majority of the roughly 1.5 million ethnic Albanians are concentrated in the province of Kosovo (called by the FRY Government Kosovo and Metohija), while others live nearby in other areas of southern Serbia. Most members of the Muslim minority of some 237,000 persons (according to the 1991 census) live in the area widely known as Sandzak (called by the Government the Raska district), stretching across south-eastern Serbia into northern Montenegro along the border with Bosnia and Herzegovina. The province of Vojvodina in the north of the Republic of Serbia is the most mixed region in the country, with 26 different ethnic, national or linguistic groups. In the Republic of Montenegro, meanwhile, there are small Albanian and Croat minority communities in addition to the Sandzak Muslims.

B. National and international legal standards

1. Constitutional provisions

20. The protection of minority rights in the Federal Republic of Yugoslavia has its basis in the 1992 Federal Constitution and the constitutions of the Republics of Serbia and Montenegro, promulgated in 1990 and 1992 respectively. Article 11 of the Federal Constitution is the core provision on this issue, guaranteeing to minorities their right to preserve, develop and express their ethnic, cultural and linguistic characteristics. This law is supplemented by a number of other measures in which more specific rights are defined.

21. While the official language is Serbian and the official alphabet Cyrillic, the languages of national minorities shall be in official use as regulated by statute (art. 15). The Constitution guarantees equality before the law without discrimination (art. 20), freedom of religion (art. 43), and the right of minorities to express and foster their culture and identity (art 45). Under article 46 minorities have the right to education and information in their own language, while article 47 guarantees their right to establish cultural institutions and associations. Articles 48 and 49 respectively speak of the right of minorities to maintain contacts with their co-nationals abroad, and to use their languages in dealings with administrative bodies and courts of law. Articles 38, 42 and 50 prohibit incitement to ethnic, racial or religious hatred.

22. The 1990 Constitution of the Republic of Serbia addresses the issues of minorities largely along the same lines as the Federal Constitution, emphasizing non-discrimination as the basis for equality of all citizens regardless of their ethnic, religious or other affiliation. The 1992 Montenegrin Constitution includes a few additional provisions which would appear to require affirmative action by the Government to protect and promote minority rights. For example, in chapter 5 the Constitution obliges the Republic, inter alia, to materially support cultural, educational and religious activities of national minorities, and to ensure their equal representation in public services and in State and local government.

23. Of particular significance is the provision of the Constitution of the Republic of Serbia stipulating that the areas of Kosovo and Vojvodina have the status of "autonomous provinces", with certain local political structures and

areas of administrative competence prescribed by law. Some aspects of this autonomous status, as well as the consequences of the reduction in provincial authority imposed by the Republic between 1989 and 1991, are considered in detail below.

2. National legislation

24. While no single comprehensive law regulates the rights of minorities on the federal or republic level, the issue is addressed by individual laws on different subjects including education, freedom of association, the media, and the official use of languages. The laws of the FRY and its constituent republics make no provision for an ombudsman-type institution to address questions of minority rights or human rights generally.

25. Under the 1991 Law on the Official Use of Languages of Serbia, in areas inhabited by minorities their languages shall be in official use together with the Serbian language. Municipal assemblies are to specify by statute which minority languages shall be in official use in different regions. In the Republic of Montenegro, constitutional provisions on language are implemented directly, without being specified in a particular law or act. The Special Rapporteur has been informed that a comprehensive law on the use of minority languages is currently being prepared by the Federal Government.

26. Under the Republic of Serbia's Law on Primary Education, pupils belonging to minority groups are to receive instruction in their own language in schools where at least five minority students enrol for the first grade. Education in minority languages may be arranged for smaller groups of students with the approval of the Republic's Ministry of Education. The law for secondary schools is similar, providing that a minimum of 15 pupils is normally required for instruction in a minority language. In higher education, the language of instruction is Serbian but studies in minority languages may be arranged with official approval.

3. International obligations

27. The Federal Republic of Yugoslavia is a State party to the main international instruments relating to the protection of the rights and freedoms of minorities. These include the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the International Convention on the Elimination of All Forms of Racial Discrimination. The FRY has engaged in dialogue and constructive cooperation with the treaty-monitoring bodies, although it does so only informally since the FRY's status before the United Nations needs further clarification. National legislation on minority rights largely conforms to the international standards set out in these instruments. However, as explained below, in some areas the implementation of these guarantees needs further strengthening.

4. Citizenship

28. It is important to recall the importance of citizenship legislation to the question of minority rights. Full enjoyment of a State's protection, and

for that matter the duty fully to honour one's civic responsibilities, begin with the acquisition of citizenship. The question of citizenship becomes exceptionally complicated when a State breaks apart, as happened with the Socialist Federal Republic of Yugoslavia. Minorities in successor States can face great difficulties in resolving their citizenship status.

29. The question of FRY citizenship was left essentially unregulated for several years in the absence of revised legislation corresponding to the country's new situation following the dissolution of the SFRY. However, on 16 July 1996 the Federal Assembly adopted a new law on citizenship, to come into force on 1 January 1997. Whether this law will have the positive effect of bringing more inhabitants of the FRY into the country's constitutional framework through the recognition of citizenship in appropriate cases remains to be seen. While the law's adoption is a step forward, concerns have been raised over some of its provisions, including the broad discretion in decisions to grant or deny citizenship which is vested in the federal and republican ministries of interior.

C. The situation in Kosovo

30. The presentation of the situation in Kosovo is based on information received by the Special Rapporteur and the field staff of the High Commissioner for Human Rights from both governmental and non-governmental sources. It is also based on the Special Rapporteur's impressions and conclusions formulated during the three missions she has undertaken to Kosovo since assuming her mandate in September 1995, the latest having taken place in October 1996.

31. The ethnic Albanian population of the province of Kosovo (called by the Government Kosovo and Metohija), located in the Republic of Serbia, makes up some 80-90 per cent of the province's population (most of the rest are Serbs), and some 15-20 per cent of the population of the FRY. While Kosovo's instability has a long and complicated history, the roots of the present problems may be found mainly in a series of events which occurred from 1989 to 1991.

32. As noted above, under the 1974 Constitution of the Socialist Federal Republic of Yugoslavia the autonomous province of Kosovo (like Vojvodina) enjoyed a high degree of political and territorial autonomy. The province had its own constitution, government, judiciary, parliament and presidency. The province's legislative competence extended to the areas of defence, internal security and even international relations. The province also had an independent educational system, supervised by a provincial Educational Council. In Kosovo a number of Albanian cultural institutions, such as the university and the Academy of Science and the Arts, sought to promote Albanian culture and traditions.

33. While constitutionally a part of Serbia, Kosovo as a province had the right to be directly represented in the Federal Parliament, the Presidency and other federal bodies, and was thereby in a position to veto decisions of importance for the federation. Indeed, the provinces of Kosovo and Vojvodina enjoyed in the SFRY a status close to that of the republics. However, in 1989

the Parliament of the Socialist Republic of Serbia, in a process of centralization of State administration and law-making, approved a series of constitutional changes which removed many of the attributes of autonomy from both Kosovo and Vojvodina. According to the Government, the reform was needed because Serbia was finding itself effectively paralysed by the provinces' wide-ranging independence. Most legislative and judicial functions of the provincial bodies were transferred to the Republic.

34. The changes were formalized with the adoption of Serbia's new Constitution in September 1990. Under its provisions the "autonomous provinces" retained some authority over the provincial budget, cultural matters, education, health care, use of languages and other matters, but the authority was thenceforth to be exercised only in accordance with decisions made by the Republic. In fact, the new Constitution gave the Republic the right directly to execute its decisions if the provinces failed to do so.

35. In reaction to these changes, a large number of Albanian public officials in Kosovo resigned their posts, while others were dismissed and replaced by people from other parts of Serbia. It has been alleged that in this way up to 100,000 persons were removed from posts in the State and provincial administrations, and in schools and public enterprises. Since most high-level public positions came to be filled by Serbs, the province's language for official business changed for practical purposes from Albanian to Serbian. The changes in Kosovo's status provoked widespread social unrest in the province, including large public demonstrations and other actions which were met with strong repressive measures by Yugoslav security forces. Numerous persons, mostly Albanians, were shot and killed during this time, many were hurt and numerous arrests, including arbitrary detentions, and incidents of torture were reported. A state of emergency was imposed in Kosovo by the Belgrade authorities.

36. In July 1990 the Republic of Serbia dissolved the government and parliament of the province of Kosovo, which led the provincial presidency to resign in protest. Shortly before the adoption of Serbia's new constitution in September 1990, a group of deputies from the former provincial parliament met in Kacanik and adopted a declaration on independence for Kosovo. One year later, in September 1991, Kosovo's Albanian leadership organized a referendum, illegal under the law of the Republic of Serbia, on independence, with more than 90 per cent of those voting indicating their support. Presidential and parliamentary elections for the so-called "Republic of Kosova" were held in May 1992, and the leader of the main Albanian political party, the Democratic League of Kosova (LDK), Dr. Ibrahim Rugova, was elected President. Since 1990, the majority of ethnic Albanians in Kosovo have boycotted all elections held for institutions of the Republic of Serbia and the FRY, thus virtually eliminating the Albanian minority's voice from the conduct of State affairs.

37. At present, two separate societies exist in Kosovo. Alongside the official bodies of the Republic of Serbia, a complete set of institutions maintained by the so-called "Republic of Kosova" manages most aspects of public administration and services, including a separate school system. During the last several years, the existence and activities of these

"parallel" institutions have frequently been used as a pretext by the FRY authorities for the systematic abuse of the human rights of ethnic Albanians. The continuing instability has had a harmful effect both on the local Albanian population and on the province's minority Serb population. While open conflict has so far been averted, the situation remains deadlocked with both sides maintaining sharply-opposing views on the province's status and future.

38. There has recently been one promising development. On 1 September 1996 the President of the Republic of Serbia, Mr. Slobodan Milosevic, and Dr. Rugova signed a Memorandum of Understanding concerning the educational system in Kosovo, following a dialogue which had been facilitated by the Italian non-governmental organization, the Community of St. Eudigio. In the agreement the two parties declare their commitment "to proceed to the normalization of the educational system of Kosovo for the Albanian children and youth". The document expressly states that "it foresees the return of the Albanian students and teachers back to schools". The agreement further states that it was reached because of the "concern which both [parties] feel very strongly for the future of the Albanian children and youth of Kosovo". While it remains to be seen whether the accord will be implemented, it is certainly a hopeful sign.

1. Law enforcement and security of the person

39. Reports have continued to be received into the past year of systematic human rights violations perpetrated by Serbian police and security services against ethnic Albanian residents of Kosovo. These abuses have included arbitrary arrests, torture, harassment and house searches involving mainly, though not exclusively, persons active in the LDK and in the running of parallel Albanian institutions. Serbian security forces have themselves also suffered violent attacks.

40. In the spring of 1996, the level of tension in Kosovo rose sharply following a series of killings and attacks at various locations in the province. The violence started on 21 April 1996 when a 20-year-old Albanian student was shot dead on a street in Pristina. The police arrested one person, of Serbian nationality, who was subsequently found guilty of murder. The next day four Serbs were killed when a group of armed men entered a restaurant in Decani and sprayed the room with automatic rifle fire. Almost at the same time, unidentified persons opened fire on a Serbian police patrol in Pec, wounding two policemen. A third attack took place the same day in Kosovska Mitrovica where a police vehicle was shot at. One female passenger was killed and the driver was wounded. Finally, in the village of Stimlje, a Serb police officer was killed in an ambush. These incidents reportedly resulted in widespread arrests, including arbitrary detentions, and alleged incidents of ill-treatment and torture of detainees in custody. During her visit to Pristina on 2 and 3 May 1996, the Special Rapporteur had the opportunity to speak with several Albanians who had witnessed or personally experienced ill-treatment and other arbitrary measures by local law enforcement authorities.

41. A great number of human rights abuses appear to have taken place in the summer and fall of 1996. The Special Rapporteur has been informed of, though

she has been unable to confirm, hundreds of cases of persons being summoned by Serbian authorities for so-called "informative talks", during which some suspects were subjected to physical mistreatment. The Ministry of Justice has stated, however, that incidents of abuse are isolated and that perpetrators are brought to justice. The Special Rapporteur has received no documentary evidence in support of this claim.

42. Hundreds of incidents of arbitrary and violent searches of homes for weapons have been reported in Kosovo in 1996. The Serbian authorities have on occasion sealed off entire areas, interrogated and sometimes physically assaulted ethnic Albanians at random, including in an incident reported to have occurred at the Pristina market on 24 July 1996. It is further alleged that some persons are imprisoned by the Serbian authorities solely on political grounds, including Mr. Ukshin Hoti, a lecturer at Pristina University and President of the Albanian National Unity Party who was sentenced to five years' imprisonment in 1994. The "disappearance" of three ethnic Albanians who were allegedly abducted, possibly with the knowledge of the local police, while they were working in fields near Srbica in September 1996 was reported by Amnesty International on 2 October 1996.

2. Education and culture

43. In connection with the centralization process described above, in 1990 and 1991 the Government of Serbia brought the field of education under the authority of the Ministry of Education in Belgrade and established a uniform curriculum to be used throughout the country. As part of this change a number of primary and secondary schools, for example in Pec, Podujevo, Oblic, Kosovo Polje and Kijevo, were reportedly closed in the 1990/91 school year. The provincial Educational Council of Kosovo was also dissolved. It is reported that more than 18,000 teachers and other staff in local schools and faculties were dismissed or resigned owing to their refusal to implement the new educational programme, which in their view was arbitrarily imposed and did not take into account the needs of the local Albanian population. Some Albanian cultural institutions were also disbanded, including the Academy of Science and the Arts. On 8 March 1994 the last Kosovo Albanian academic institution, the Institute for Albanian Studies, was closed by a decision of the District Administrator of Kosovo.

44. Despite the measures taken for new teaching programmes, Albanian-language schools continued to follow the curricula established by the disbanded Educational Council and a large number of so-called "parallel" schools opened in private houses during the 1990/91 school year. It is estimated today that up to 300,000 pupils are attending primary and secondary classes in the "parallel" school system. An additional 6,000 students are enrolled at the "parallel" university in Pristina. Since these institutions are not operated under government authority, diplomas and degrees issued by them are not officially recognized. Harassment by Serbian police of teachers and students on the premises of "parallel" schools has been reported on numerous occasions, including an incident alleged to have occurred on 20 June 1996 at Petrovo, near Stimlje, where police raided the teachers' room of an elementary school, checked identification papers and ordered several persons to report to the local police the next morning.

45. As noted above, an event of potentially major significance occurred on 1 September 1996 when President Milosevic and Dr. Rugova signed an agreement on the normalization of education in the province. Under this framework agreement all Albanian students are to return to official schools. The accord is to be put into practice by a commission consisting of representatives of both parties. While preparations for the establishment of this commission are under way, the Special Rapporteur is concerned that there has been little progress so far in the implementation of the agreement. In the interests of Kosovo's children, it is hoped that the discussions which will take place will result in the reintegration of the two educational systems, renewed confidence in the Serbian authorities' commitment to respect the rights of the Albanian minority in the field of education, and an end to harassment of and discrimination against Albanian educators.

3. Health and child care

46. The health-care situation has also been negatively affected by the tensions in Kosovo, and as noted in earlier reports of the Special Rapporteur, it is the children who suffer the most. The Special Rapporteur has paid particular attention to this problem during her missions to Kosovo, where she has visited several local health-care centres and clinics.

47. It appears that, owing to mistrust, Albanian parents are often reluctant to have their children examined and treated by doctors and other medical staff of Serb nationality. One concrete result of this is a low immunization rate of Albanian infants against polio and other epidemic diseases. The Special Rapporteur therefore welcomes the polio vaccination campaign carried out from 27 to 29 September 1996 by the World Health Organization, UNICEF and the Albanian humanitarian organization "Mother Theresa", under the auspices of the Serbian Ministry of Health. This campaign has reportedly been successful in achieving its aim of vaccinating some 300,000 children throughout Kosovo.

48. During her most recent visit to Pristina in October 1996, the Special Rapporteur visited the local Children's Hospital, where she was informed of the tragic fate of a large number of newborn babies who had been abandoned by their mothers, many of whom were young and unmarried, immediately after their birth. This appears to be a particular problem in Kosovo. The Special Rapporteur was deeply disturbed to learn that most of these children end up in orphanages where conditions reportedly are poor.

4. The media

49. As in the rest of Serbia, the population in Kosovo relies on TV and radio for news and information. Only State-controlled stations operate in the region. Although Albanian-language broadcasts are available, few people watch them since the programmes are widely regarded as State propaganda. Some Albanians who can afford it receive TV Albania by satellite. The main Albanian daily, Bujku, which is close to the LDK party, currently is published in some 10,000 copies daily. The paper is formally under the State publishing house Panorama, which also controls its distribution and printing. Panorama reportedly keeps printing costs for Bujku at double those of other publications.

50. The independent weekly news magazine Koha (circ. 7,000) acquired its own printing facilities this year, and is now trying to establish an independent distribution network. One case of direct State interference in the work of Koha has been reported. In April 1996, the magazine published a satirical photo-montage of President Milosevic of Serbia, as a result of which State security police allegedly entered the magazine's premises, stopped operations and ordered the paper henceforth to have its contents pre-approved by the police. However, the orders have reportedly not been enforced.

5. Conclusions and recommendations

51. A complex mix of factors has resulted in a continuing pattern of human rights abuses in the province of Kosovo, and to the region's overall instability. There is no purpose served by attempting to attribute sole responsibility either to the Serbian authorities or to local Albanians and their political leadership. It will be essential in the near term for both sides to commit themselves to reopening regular channels of communication and to accepting the need to compromise in the interests of easing tension.

52. The leadership both of the Federal Republic of Yugoslavia and of the Republic of Serbia will have to acknowledge the legitimacy of the goal of the Kosovo Albanian minority to realize meaningfully their national and ethnic identity, which is consistent with the FRY's international obligations and with its domestic law. In this regard, the severe restriction by Serbia in 1990 of Kosovo's provincial authority must be seen as having been harmful to the legitimate interests of the Albanian minority. Because of the size and geographic concentration of the Albanian population, Kosovo's situation is unique, and its problems require exceptional steps in order to be resolved.

53. Kosovo's Albanian leadership should acknowledge the legitimacy of the FRY's interest in defending the integrity of the State. Both parties should now commit themselves to finding a durable solution to the Kosove question in the interest of regional peace.

54. The FRY authorities must take immediate and much stronger action to stop the trend of violent human rights abuses by Serbian security forces against the Kosovo Albanian population. Schools and homes should be secure from arbitrary and illegal searches. Political prisoners should be released forthwith.

55. The Kosovo Albanian leadership must recognize that special measures should be taken by provincial authorities to safeguard the human rights of the local Serb minority.

56. The recent agreement between President Milosevic of Serbia and Dr. Rugova on the question of education is a major step forward. Both sides should take the opportunity immediately to continue and broaden this dialogue, including through direct talks.

D. Vojvodina

57. The current population of the province of Vojvodina, totalling about 2 million people, is a mixture of some 26 different ethnic, linguistic and cultural groups. While Serbs make up a slim majority in the province (around 57 per cent), Hungarians constitute the largest minority group, some 17 per cent. According to the 1991 census, other groups were represented as follows: Croats, 3.7 per cent; Slovaks, 3.2 per cent; Montenegrins, 2.2 per cent; Romanians, 1.9 per cent; Romanies, 1.2 per cent; Bujevci, 1.1 per cent; Ruthenians, 0.9 per cent; and Ukrainians, 0.24 per cent. Still smaller groups of Macedonians and Albanians also live in the region. The Hungarian community is mostly concentrated in settlements in and around the towns of Subotica, Backa Topola and Ada, while Croats live mainly in the areas of Srem, Backa and Banat, with the Croatian cultural centre located in Subotica.

58. Vojvodina's prior status as an autonomous province, within Serbia, like that of Kosovo, gave the provincial authorities wide-ranging legislative and executive independence from the central Government in Belgrade. However, as with Kosovo, the changes to Serbia's Constitution in 1990 reduced this autonomy considerably. At present, the Provincial Assembly has no actual legislative powers and can only make suggestions and recommendations on provincial matters to the parliament of the Republic of Serbia.

59. Under the arrangement currently in force in Vojvodina, in addition to Serbian, there are four official minority languages - Hungarian, Slovak, Romanian and Ruthenian - in use in provincial administrative and governmental bodies. Simultaneous interpretation in these languages is provided during sessions of the Provincial Assembly. According to government information a total of 45 municipalities in Vojvodina, on the basis of the Law on the Official Use of Languages, have local provisions regarding the use of minority languages. Thus, in addition to Serbian, Hungarian is the official language in 31 municipalities, Slovak in 12, Romanian in 10, Ruthenian in 6 and Czech in 1 municipality.

60. Primary education is provided in the minority languages mentioned above: Hungarian is used in 29 municipalities, Slovak in 12, Romanian in 10 and Ruthenian in 3 municipalities. At the secondary level, teaching in these languages is available in 12 high schools and 20 vocational schools. Higher education is given in Hungarian at 7 faculties, in Slovak at 2, in Romanian at 2 and Ruthenian at 2.

61. The Special Rapporteur visited Vojvodina on 24 and 25 June 1996 and met with both provincial authorities and with representatives of the Hungarian and Croat minorities in Novi Sad and Subotica. The information in the following paragraphs is based on data gathered during that visit and on additional reports received from governmental and local non-governmental sources.

1. Refugee resettlement in Vojvodina

62. With the outbreak of war in the former Yugoslavia, Vojvodina became the reception centre for a large number of refugees from Croatia and

Bosnia and Herzegovina. The latest major population transfers took place after Croatia's military operations against the so-called "Republic of Serb Krajina" in 1995, which resulted in more than 150,000 Serb refugees from the Krajina region crossing into the Federal Republic of Yugoslavia. According to the preliminary results of a recent refugee census, some 230,000 of the approximately 560,000 refugees now living in the FRY are accommodated in Vojvodina. This has clearly put a serious strain on the region's economic and social capacities.

63. Representatives of minorities have alleged that the resettlement of Serb refugees is aimed at altering the ethnic composition of the minority-dominated municipalities of Vojvodina. Information gathered through the above-mentioned census indicates that in municipalities in Vojvodina with a large minority population the proportion of refugees varies between 3 and 7 per cent. However, in some smaller towns and villages larger numbers of refugees have reportedly been accommodated, which has caused disquiet among local minority populations. While their concerns are understandable, it is clear that Vojvodina, owing to its relative wealth, must bear a reasonable part of the burden of assisting the enormous refugee population now living in the FRY.

2. The Hungarian community

64. During the arrival of large numbers of refugees from Bosnia and Herzegovina and Croatia, particularly in 1991 and 1995, many Hungarian families were forced to leave their homes under pressure and violent threats from some refugees and Serb extremist elements. It is estimated, in addition, that some 30,000 to 40,000 young Hungarians fled Vojvodina during the war years to avoid forcible conscription. Until recently these persons were unable to return to the Federal Republic of Yugoslavia owing to fear of prosecution. While an amnesty law was passed by the Federal Assembly on 18 June 1996, it is as yet unclear whether the draft evaders will consider the new law's safeguards sufficient for them to return. The fact that many of those who left were young and well educated has clearly weakened the position of the Hungarian minority still further.

65. Today, the main complaints and allegations heard from the Hungarian community relate to discrimination in access to public jobs and official use of their language. With the 1990 changes in autonomy status, the previous system of proportional minority representation in public offices - the so-called "national key" - was abandoned. As a result, there has been a significant decline in the number of Hungarians employed in the public sector, especially in the courts and in the police and border authorities. In some municipalities with a Hungarian majority, including Senta, Ada and Backa Topola, none of the presidents and few local court judges are Hungarian. In the courts of the provincial capital of Novi Sad, the number of Hungarian judges has reportedly dropped from 32 to 3 in the last six years.

66. According to article 19 of the Law on the Official Use of Languages, in municipalities where minority languages are in official use, topographical names and names of public institutions and enterprises shall be written in both Serbian and minority languages. However, it is reported that only about half of the offices of government authorities in Subotica, with a Hungarian

population of about 40 per cent, have signs and name-plates in Hungarian as well as Serbian. Many railway stations in Vojvodina use signs only in Serbian. Since most public officials are Serbs, Hungarians are frequently unable to use their language in dealings with the authorities.

67. Now that the administration of schools in the province is under the authority of the Government of the Republic of Serbia, decisions on appointments of principals and teachers as well as other issues of local importance are taken by the Ministry of Education in Belgrade. It has been reported that in this process, few Hungarians have been appointed as principals of primary and secondary schools. Textbooks for primary and secondary education for Hungarian pupils are translated directly from Serbian, in accordance with the uniform curricula in use throughout the Republic of Serbia, with little attention given to the particular interests of the Hungarian minority. Concerns have thus been expressed that the current curricula do not satisfy the need of Hungarian pupils to learn about their own history and culture.

3. The Croat community

68. It is reported that between 1991 and 1995, some 45,000 to 50,000 Croats fled the Federal Republic of Yugoslavia mainly because of terror and intimidation organized by local nationalist Serb groups and Serb refugees arriving from Croatia. Harassment and violence reached a high point at the beginning of the fighting in Croatia in 1991, and reportedly rose again in August 1995 following Croatia's military operations against the so-called "Republic of Serb Krajina". A number of villages in the border areas around Sid and Sombor were particularly affected by violent attacks. In the village of Stanisici, close to Sombor, 20 attacks with explosives and grenades and one case of arson were reported between 1991 and 1995. As a result some 87 Croat families fled the village, with the last group of 43 families leaving in August 1995. It is further reported that on 8 August 1995, in the village of Kukujevci, near Sid, a group of armed men in uniform broke into a number of Croat homes and severely ill-treated the inhabitants. Similar incidents have been reported in Hrtkovci and Novi Slankamen. Catholic churches have been the target of several attacks, and members of the clergy have reportedly been abused by both the police and local civilians. Allegedly, Serbian police reacted slowly and reluctantly to most of these criminal acts. However, in late 1995, the police reportedly intensified some patrols in the region, improving the security situation of local Croats.

69. It has been reported that members of the Croat minority have largely been blocked from employment in public institutions and offices. Allegedly in Subotica, with a 10 per cent Croat minority, the police force does not have a single Croat officer, and only 2 of the 60 local judges are Croats. Croats in this community have had serious difficulties in regularizing their citizenship status and obtaining documents and passports. Croats born in other parts of the former Yugoslavia but who have lived in the Vojvodina region for decades are not allowed to register ownership of property in the FRY, which prevents them from selling or otherwise transferring it.

70. Concerns have also been expressed regarding the difficult cultural and educational situation of the Croat minority. No Croatian newspapers or magazines are published locally, and media from Croatia have not been available in Serbia since the beginning of the conflict. Cultural heritage is also endangered by the fact that no classes in Croatian history and culture are arranged for children at school.

4. Conclusions and recommendations

71. The Governments of the FRY and the Republic of Serbia deserve credit for certain measures which have been taken in the province of Vojvodina for the promotion of minority rights. It is true that serious problems have affected the region, most disturbingly the violent incidents of abuse, including forcible evictions from homes, which have been permitted to take place against certain communities, especially Croats and Hungarians, in connection with events in the war in neighbouring Croatia. However, some success has been achieved in advancing the interests of the area's different minority groups, including through the provision of education in minority languages and the use of different official languages for administrative business.

72. The revision of Vojvodina's provincial status in 1990, however, has resulted in some unsatisfactory consequences, including the removal of control over some administrative matters from local authorities to central authorities in Belgrade, who have on occasion taken decisions incompatible with local needs. The Serbian authorities should return greater decision-making power in matters of local concern, such as the content of school curricula and the choice of educational administrators, to the community level in Vojvodina, to better ensure the protection of minority rights. The sharp drop in the number of important local posts, such as judgeships and positions within the police, which are held by members of local minorities is a matter of particular concern and should be energetically remedied.

73. While the resettlement of large numbers of Serb refugees from Croatia and Bosnia and Herzegovina in many areas of Vojvodina has placed a significant burden on local resources, it is understandable that the authorities would call upon the region to assume substantial responsibility in this area, in view of Vojvodina's relative wealth. Refugees, of course, are entitled to decent treatment as they contend with the upheaval in their lives. It will be essential for authorities in Vojvodina to manage this process of resettlement which, it is hoped, will be only temporary in many cases, with care, distributing the economic and social burden among established communities evenly, ensuring that order is maintained and above all preventing and, if necessary, remedying violent acts committed against members of minority communities.

74. The FRY Government's passage of the amnesty law of June 1996 benefiting persons who avoided military service is a welcome development. The authorities should take measures to ensure that its provisions are applied generously, and that former residents of the area can return without fear. Also in the interest of promoting goodwill in Vojvodina, the authorities should undertake additional confidence-building measures for minority

populations, including ensuring greater use of minority languages in official contexts and permitting the distribution of a wider range of media of interest to minorities.

E. The situation in Sandzak

75. The region commonly known as Sandzak, bordering on Bosnia and Herzegovina, is administratively divided between the Republics of Serbia and Montenegro. According to data from the 1991 census, the population of the region at that time was some 60 per cent Muslim and 40 per cent Serb and Montenegrin. In the Serbian part of Sandzak, Muslims made up the majority or around 63 per cent of the total population; on the Montenegrin side, the corresponding figure was approximately 47 per cent. However, these proportions may have changed significantly owing to large-scale migrations from the region in the last five years.

76. Political tensions have persisted in the Sandzak region since the break-up of the former Yugoslavia. The situation turned increasingly precarious in October 1991, when the Muslim Party of Democratic Action (SDA) of Sandzak organized an unofficial referendum on autonomy for the region. According to SDA sources, 98.9 per cent of the votes cast were in favour of an autonomous Sandzak.

1. Police abuse and arbitrary arrests

77. The FRY authorities have responded to the volatile situation in Sandzak by strongly increasing the presence of military and police units in the region. In the last several years there have been continued reports of serious human rights abuses perpetrated both by the Yugoslav authorities and by Bosnian Serb paramilitary forces crossing into Sandzak from the Republika Srpska. With the declared aim of looking for hidden arms, the police have carried out systematic searches of Muslim homes in locations throughout the region. Numerous cases of arbitrary arrests, interrogations and ill-treatment or torture have been reported and documented in connection with these raids, in which members of the SDA, other political activists and journalists appear to have been particularly targeted. The authorities have reportedly taken little or no action to investigate or put a stop to these abuses. The situation has now calmed somewhat with only sporadic incidents reported in the last year. It is nevertheless clear that the Government of the Federal Republic of Yugoslavia continues to bear responsibility for investigating past abuses in order to bring the persons responsible to justice.

2. Harassment and forced displacement

78. Harassment, intimidation and violence against the local Muslim population were reportedly particularly intense in the Sjeverin-Bukovica area near the Bosnian border from 1992 to 1994. Bosnian Serb irregulars and paramilitary units are believed to have been responsible for most of these abuses, but it appears that the Yugoslav army and police did little to stop the incursions and protect the population. It has also been alleged in some cases that members of the military and police of the Federal Republic of Yugoslavia have participated in violent attacks.

79. As a result of the violence, an estimated 60,000 to 80,000 Muslims have left the Sandzak region since 1992 and found refuge in various Western European countries. Some of the approximately 3,000 persons who fled border villages like Sjeverin, Batkovce, Kukurovici and Sastavci settled in the town of Priboj in the Serbian part of Sandzak, where 96 displaced Muslim families - nearly 500 persons - now live with friends and relatives. Another 46 Muslims displaced from the Bukovica area in Montenegro have settled in the town of Pljevlja. It is estimated that around 1,500 persons were forced to leave their homes in the Bukovica area.

80. During her visit to Sandzak in early May 1996 the Special Rapporteur visited the village of Sjeverin near Priboj. Previously, she had received reports that of some 336 Muslims who used to live in the village, only 12 remained. These reports also indicated that most of the abandoned houses had been looted and some burned by local civilians and paramilitary gangs between 1992 and 1994. In Sjeverin, the Special Rapporteur was able to confirm that the majority of abandoned houses had indeed been looted and in some instances partly destroyed. However, in most cases the damage did not appear to be irreparable, giving rise to the hope that displaced villagers would eventually return. It is nevertheless clear that a survey of the affected villages would be needed to assess the total extent of the destruction.

81. In Priboj, the Special Rapporteur had the opportunity to meet with representatives of the displaced persons living there. Most of the people were farmers, now cut off from their land and therefore without income. As they had not been recognized as displaced persons by the Serbian authorities, they faced serious difficulties in obtaining government assistance. Some of the displaced who were employed in local industry in Priboj before the war had managed to keep their jobs and stay in the town with friends or relatives. The majority of the displaced expressed the wish to return to their homes, but only with adequate safety guarantees from the authorities.

82. Most Muslims remaining in the Sjeverin area are elderly and only survive with help received from sympathetic Serb neighbours, since very little aid is distributed by the authorities. In the Sjeverin area, which can be reached directly from Priboj only by a road which crosses the territory of the Republika Srpska, the remaining Muslims are effectively isolated. After the abduction of 17 Muslims from a bus in October 1992, the authorities, citing security reasons, have prevented Muslims from using the road connecting Sjeverin to Priboj. Consequently, the Muslim inhabitants now have to walk 40 kilometers through mountainous terrain to reach Priboj. For the elderly this is obviously impossible. Other villages are even more isolated, as they are situated some 120 kilometers from Priboj, and inhabitants are cut off from all services including medical care and education. It is reported that the security situation of the Muslims remaining in Sjeverin has improved somewhat in the last year, with new police in charge and paramilitary elements gone from the area.

83. Following her visit to the Priboj area, the Special Rapporteur has on several occasions discussed the plight of the displaced with the competent authorities in Serbia and Montenegro, and stressed their responsibility to

assist these persons to return to their homes in safety and dignity. In this regard, she is encouraged to note that the Government of Montenegro, in cooperation with the Office of the United Nations High Commissioner for Refugees, is currently preparing a return programme for the displaced in Pljevlja. The Montenegrin authorities have also recognized the villagers in Pljevlja as displaced persons and distributed assistance covering their basic needs. As a first stage in the return project, on 8 August 1996 a group of villagers, with the assistance of the Montenegrin Ministry of Interior, was able to visit and inspect their homes in the Bukovica area for the first time in years. The displaced in Priboj have approached the Government of Serbia requesting assistance in arranging a similar visit to their homes near Sjeverin. However, it appears this request has gone unanswered. The Special Rapporteur has appealed to the Government, including the President of Serbia, to enable these persons to visit their homes and to assist in their eventual return. In a meeting with the Special Rapporteur in Belgrade in October 1996, however, the Serbian Minister of Interior offered no new hope in this regard. The Special Rapporteur intends to pursue this issue with the competent authorities in the months to come.

3. Abductions

84. A number of large-scale abductions of Muslims have occurred in recent years, mainly in the areas around Sjeverin and Bukovica. On 22 October 1992, 17 persons from Sjeverin were taken from a bus at the village of Mioce, allegedly by paramilitary forces. This happened on the short part of the road which runs through the territory of Republika Srpska in Bosnia and Herzegovina. On 15 February 1993, 11 Muslims were taken from their homes in Bukovica village in Montenegro, allegedly by Bosnian Serb irregulars. Six of them were later returned after having been held for three weeks in the police station in Cajnice, Republika Srpska. It appears that the remaining five persons were handed over to the authorities of Bosnia and Herzegovina in March 1993 in connection with a prisoner exchange. On 27 February 1993, a passenger train en route from Belgrade to Bar was stopped at the Strpci station. A group of armed men wearing unmarked camouflage removed 19 Muslim men from the train. The group is believed to have been transported by truck to Visegrad in Republika Srpska, where they were allegedly all killed. Other cases of smaller-scale abductions have also been reported, the last one on 6 April 1993.

85. The official investigations of these abductions launched by the Serbian and Montenegrin Ministries of Interior have been inconclusive, and the Special Rapporteur is concerned that no official reports of the inquiries have been published. In October 1993, the Montenegrin parliament established a special committee to investigate the abduction at Strpci. However, it is reported that the committee's inquiries failed to produce any results, mainly owing to lack of cooperation from the Montenegrin Ministry of Interior. During her visit to Prijepolje in May 1996 the Special Rapporteur met with a group of relatives of persons abducted at Strpci, who confirmed that they had received no information about the fate of their family members. Following her mission the Special Rapporteur wrote a letter on 31 May 1996 to the Minister of Interior of Serbia, requesting information on the current state of investigations into the abductions. On 24 June 1996 the Secretary of the

Commission for Humanitarian Questions and Missing Persons of the Federal Government, Mr. Maksim Korac, replied to her letter claiming that the Commission had no knowledge of the incidents. A subsequent letter to the Special Rapporteur from the Serbian Minister of Interior in July 1996 stated that the Republic of Serbia had no jurisdiction over the incident since it had evidently happened on the territory of the Republika Srpska, in Bosnia and Herzegovina. However the Minister indicated that communications for the purpose of clarifying the abductions had been established with the competent bodies of the Republika Srpska.

86. During her visit to Podgorica on 7 August 1996, the Special Rapporteur met with the Montenegrin Minister of Interior and discussed the above-mentioned abductions at length. While it appears that investigations are continuing, the Montenegrin authorities have not provided any new information to clarify the incidents. The Special Rapporteur in her contacts with the Governments of Serbia and Montenegro has continued to emphasize their responsibility to investigate the abductions, and has suggested that an international body of experts be set up to assist the Yugoslav authorities in their work.

4. Discrimination

87. While the security situation in the Sandzak region appears to have improved in the last year, the Special Rapporteur has received a number of reports alleging discrimination and unequal treatment, particularly regarding the education and employment opportunities of the Muslim population.

88. Many of the complaints from representatives of the Sandzak Muslims concern the allegedly biased contents of the school curricula. Although the Special Rapporteur has not been in a position to verify these allegations, it would appear that the literature and teaching aids used in classes include very few elements of Muslim culture and history. It is also reported that some history and geography textbooks contain material presenting the Muslims and their role in the region's history in a negative and sometimes hostile way.

89. In recent years a large number of medical personnel of Muslim origin have reportedly been dismissed from their jobs. According to these reports, since 1992 about 40 per cent of the Muslim doctors in the region have been fired or demoted to insignificant posts on vague grounds. It appears that persons not belonging to the ruling Socialist Party have in particular been subjected to this form of discrimination. Similar dismissals have been reported from the police forces, the army, schools and other public institutions. The Special Rapporteur intends to investigate these allegations further and return to the issue in her future reports.

5. Conclusions and recommendations

90. Although violent human rights abuses against the Muslim minority in the Sandzak region have significantly declined, there remains an urgent need to clarify the grave incidents which have occurred since 1992, and to punish those responsible. Furthermore, the authorities of the Republic of Serbia

should take measures to remedy the situation of displaced Muslims who were forced from their homes in the Priboj area. In this regard, the initiative of the authorities of the Republic of Montenegro to begin the process of return to the Bukovica area is a most welcome development.

91. The violence suffered, in some cases, at the hands of the FRY authorities by Muslim residents of Sandzak, the authorities' failure to take Muslims' cultural identity properly into account in fields such as education, and persistent discrimination have resulted in an unsurprising lack of confidence among the region's minority Muslim population. Official policies and practices implemented by the FRY authorities are inconsistent with their obligations under international and national law and require urgent revision.

92. The participation of all parties in the FRY elections in November 1996 will be a positive sign for future developments in the Sandzak area.. The FRY authorities should reinforce the improving climate by undertaking new measures, including ending discrimination against Muslims in public employment and ensuring their meaningful participation in local government.

F. The Bulgarian community

93. The Special Rapporteur met with representatives of the Bulgarian community during her visit to the Federal Republic f Yugoslavia in May 1996. This minority makes up about 0.3 per cent of the total population of Serbia (some 25,000 people) and is concentrated mostly in settlements in and around the towns of Dimitrovgrad, Bosilegrad and Zvonac in south-eastern Serbia.

94. The main allegations and complaints on human rights issues brought by this community focus on education. According to government information, instruction in the Bulgarian language is available in 38 primary schools in Bosilegrad and Dimitrovgrad. However, the Special Rapporteur has been informed that in some instances local educational authorities have discouraged both teachers and pupils from using the Bulgarian language in class. Schools for the Bulgarian minority are further allegedly denied the right to celebrate the Bulgarian national holiday, St. Cyril and Methodius Day. Most historical monuments of importance to Bulgarians are reportedly in a dilapidated condition owing to lack of maintenance, and it appears that the authorities are doing little to improve the situation.

G. The situation of minorities in the Republic of Montenegro

95. During her visit to Podgorica in August 1996, the Special Rapporteur held lengthy discussions on the situation of the country's minorities with President Bulatovic and with the Ministers of Interior and Justice of the Republic of Montenegro. The visit also included meetings with representatives of local non-governmental organizations, in which a number of problems of particular concern to the local Albanian and Croat minorities were raised. The situation of the Muslim community in the Sandzak region has already been discussed above.

96. The Republic of Montenegro, pursuant to article 76 of its Constitution, has established a Council for Protection of the Rights of National and Ethnic

Groups to protect and promote the ethnic, cultural, linguistic and religious identities and the constitutional rights of minorities. The Council, which is appointed by the parliament, includes among its members representatives of minority groups as well as politicians and experts, and is chaired by the President of the Republic. This body plays a mainly supervisory role in the preparation of legislation and formulation of government policies in the field of minority protection.

1. The Albanian minority

97. Ethnic Albanians constitute around 7 per cent of the population of Montenegro and mostly live in settlements around the town of Ulcinj. This predominantly Muslim community has also suffered in the hostile atmosphere of the war years, mainly from hate messages in the media and harassment by radical elements. However, the proximity of the relatively porous border with Albania has enabled it to maintain both cultural and economic links, leaving the community less isolated and vulnerable than other minorities. Most of the complaints of the Albanians concern the educational system and particularly the curricula, which apparently include few references to Albanian culture and history. While Albanian-language primary schools do exist in municipalities which are predominantly Albanian, secondary and higher education exists only in the majority language.

98. The Albanians in Montenegro are politically represented by the Democratic Party of Albanians. Allegedly, the State media seldom report on or publish statements by the party. Local Albanians also reportedly feel that Albanian-language broadcasts of State television and radio merely represent the views of the central government in Podgorica rather than the particular interests and concerns of their minority group. The radio station in Ulcinj, run by the Albanian-led local government, broadcasts half of its programmes in Albanian. However, this station can only be heard in the town itself. Some four years ago KOHA, the only Albanian news magazine in Montenegro, was closed down, apparently due to economic difficulties. A group of local journalists has launched an initiative to establish a new daily newspaper in the Albanian language, but financial obstacles have so far prevented its appearance.

2. The Croat minority

99. According to the 1991 census, Croats made up around 1 per cent of the population of Montenegro. The majority of this group lived in the west around the towns of Tivat and Kotor, close to the Croatian border where tensions have remained high in recent years. It is reported that particularly in the years 1992-1994, the local Croat population suffered repeated incidents of harassment, threats and, in some cases, violent attacks, perpetrated mostly by extremist elements. Local Catholic clergy were allegedly subjected to verbal abuse and threatening phone calls. While the police appear to have taken some action to curb the violence, investigations of the incidents have been inconclusive. Because of the harassment and the area's difficult social and economic situation, a large number of Croats left for Croatia, most doing so at the beginning of the war. It is reported that the population of Tivat, which was 50 per cent Croat before the war, today is only 20 per cent Croat.

Since many of the persons who left were young and well-educated, there is reason to fear that the exodus will have serious consequences for the future prospects of Montenegro's Croat minority.

100. The Croat population's current problems mostly concern job discrimination. The majority of the Croats in the Kotor area have traditionally been employed in the ship-building industry. Owing to economic difficulties unemployment has risen dramatically in the region, and more often than not, Croats were allegedly the first to have been laid off. Croats have also reportedly been dismissed from posts in the public sector, particularly in the courts and schools in Tivat and Kotor.

III. SITUATION OF MINORITIES IN THE REPUBLIC OF CROATIA

A. Background

101. The Republic of Croatia, which declared independence from the SFRY in 1991, is a multi-ethnic society with a large majority of Croats. According to the 1991 census, Croats at that time constituted some 84 per cent of the country's total population of 4,780,000, followed by Serbs (12 per cent), Muslims (0.9 per cent), Slovenians (0.5 per cent), Hungarians (0.5 per cent), Italians (0.4 per cent), Czechs (0.3 per cent) and smaller numbers of Montenegrins, Albanians, Germans, Romany and other groups. The size of Croatia's Serb population changed dramatically in the summer of 1995, when nearly one third of the pre-war total of some 581,000 persons fled from Croatia to neighbouring countries, mainly Bosnia and Herzegovina and the Federal Republic of Yugoslavia, following Croatia's successful military action against the self-proclaimed "Republic of Serb Krajina (RSK)". However, many Croatian Serbs had already left the country in the years following Croatia's declaration of independence for a variety of reasons, including concerns about their personal security and future prospects within Croatian society.

102. Prior to 1991 Croatia's Serb population lived throughout the country, principally in the urban centres of Zagreb and Split, in border areas adjacent to north-west and western Bosnia and Herzegovina and in large parts of Eastern and Western Slavonia in the east of the country. After Croatia's declaration of independence in 1991, the de facto political leadership of a large part of Croatia's Serb population decided unilaterally to attempt to create a state, the so-called "RSK", in border areas close to Bosnia and Herzegovina and the Republic of Serbia, and to declare its secession from Croatia. Heavy fighting ensued between Croatian government and "RSK" forces, followed by a fragile cease-fire negotiated in 1992 under the auspices of the United Nations. For the next four years Croatia remained essentially divided, with the de facto authorities of the "RSK" controlling some 25 per cent of the country's territory.

103. Territory controlled by the "RSK" was itself divided into four designated "United Nations Protected Areas (UNPAs)", known as Sectors East, West, North and South, which were monitored by United Nations peace-keeping forces while attempts were made to resolve the two sides' differences. The attempts proved largely fruitless and the situation remained at an impasse,

with occasional outbreaks of fighting, until 1995 when the Croatian Government undertook military action on its own to recover control over three of the four UNPAs. It was these military operations in 1995 which resulted in the flight from Croatia of between 150,000 and 200,000 persons, mostly Croatian Serbs, from territory controlled by the "RSK" to neighbouring countries.

104. As for the fourth UNPA, Sector East, located in the Eastern Slavonia region of Croatia and bordering on the Republic of Serbia, the Basic Agreement on Eastern Slavonia, Baranja and Western Sirmium concluded in December 1995 between the Government and the de facto Serb authorities provided for the territory's peaceful reintegration into Croatia within a one- to two-year period. The Eastern Slavonia region is now administered by a transitional authority, the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES), which is charged with the responsibility for overseeing the reintegration process.

105. An examination of the many reasons why parts of Croatia's Serb population chose to attempt to secede from Croatia is beyond the scope of this report, although some reflection has been given to this question. Of immediate concern is the extent to which Croatia's present policies and practices may serve to safeguard the legitimate concerns of Croatia's minority Serb population and its position within Croatia's constitutional framework. The following paragraphs consider this question, and that of Croatia's approach to minorities generally since the country is also home to other (much smaller) minority populations. The discussion takes into account the document provided to the Special Rapporteur in June 1996 by the Government of Croatia, "Report by the Government of the Republic of Croatia on the Implementation of Cultural Autonomy of the Members of Ethnic and National Communities or Minorities in the Republic of Croatia", as well as information gathered independently by the field office of the United Nations High Commissioner for Human Rights in Zagreb.

B. National and international legal provisions

1. Constitutional and other national legislation

106. The Constitution of the Republic of Croatia, adopted in 1991, proclaimed the establishment of Croatia as "the national state of the Croatian nation and a state of members of other nations and minorities who are citizens: Serbs, Moslems, Slovenes, Czechs, Slovaks, Italians, Hungarians, Jews and others, who are guaranteed equality with citizens of Croatian nationality and the realization of ethnic rights in accordance with the democratic norms of the United Nations Organization and the free world countries" (Preamble). The Constitution provides for equality before the law for all citizens (art. 14), equal rights for members of all nations and minorities (art. 15) and freedom for members of all nations and minorities to express their nationality, to use their language and script, and to cultural autonomy (art. 15). Any call for or incitement to national, racial or religious hatred or any form of intolerance is prohibited and punishable (art. 39).

107. Under the previous republican regime of the Socialist Republic of Croatia, as well as that of the Socialist Federal Republic of Yugoslavia,

Serbs as well as Croats were "constituent nations" of the State. The Constitution of 1991 effectively changed this classification, instead designating Serbs as one of a group of "other nations and minorities", guaranteed equality, who, together with "the Croatian nation", comprised the citizens of the State. The relegation of Serbs from a "constituent nation" to a status perceived to be lower in the legal scheme certainly played a role in some Serbs' decision to attempt to secede from Croatia in 1991.

108. Pursuant to articles 14 and 15 of the Croatian Constitution, the Croatian Government in 1991 adopted a Constitutional Law on Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities in the Republic of Croatia (hereafter, "Constitutional Law on Human Rights"). This legislation, referring expressly to the international obligations of Croatia and to the relevant international norms, 7/ contains important measures for the protection and promotion of minority rights. These include the right to cultural autonomy (art. 5); observance of the principles of non-discrimination and the right to identity, culture, religion, education, and public and private use of a language and alphabet (art. 6); the protection of the right to equality of participation in public affairs (art. 6) and establishment of a special political status, resulting in a form of limited self-rule, for districts where members of ethnic and national communities or minorities form a majority of the population (art. 13). 8/ Article 18 grants special rights of representation at the national level to populations numbering more than 8 per cent of the total population of the country.

109. Articles 13 and 18 were among several provisions of the Constitutional Law on Human Rights suspended by the Government in September 1995, after Croatia's military operations against the "RSK". According to the terms of the suspension, it will remain in effect until the next census. The Government took the position that the departure of large numbers of Serbs from Croatian territory rendered inoperative the Law's provisions granting special self-rule and national representation to Croatian Serbs. Since Serbs no longer constituted more than 8 per cent of the country's population, the Government contended, they no longer could avail themselves of the Law's provision for proportional representation in the Croatian parliament, government and supreme judicial bodies, nor could the districts which previously had a Serb majority exercise limited self-rule. As a consequence of the suspension, the number of seats reserved in the parliament for Croatian Serbs was reduced from 13 to 3, and the Croatian Serbs' opportunities for participation in local government were sharply reduced. Croatia's decision to suspend these provisions of the Law has provoked sharp international reactions, including several calls upon Croatia by the Security Council to reinstate the suspended provisions. 9/

110. Croatian law contains other important provisions concerning the rights of Croatian Serbs and other minorities. These include the Charter on the Rights of Serbs and Other Nationalities, proclaimed in 1991, which guarantees freedom of speech and the advancement of national language, identity and culture, as well as freedom of political activity and association. The Government has also established an Office for Inter-Ethnic Relations to facilitate policies and help implement harmonious inter-ethnic relations.

111. Much of the legislation affecting aspects of minority rights in Croatia is directly applied from constitutional provisions, while other aspects are implemented by national and local regulations. Important laws are still in place which address such themes as education, the media, and cultural activities. The Croatian Government has advised the Special Rapporteur that a new law is being drafted on the provision of education in the languages of national minorities.

2. International obligations

112. Like other countries of the former Yugoslavia, Croatia is a State party to the main international instruments relating to the promotion and protection of human rights, which encompass the rights and freedoms of minorities, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Rights of the Child. The Government has maintained a constructive dialogue with the various treaty-monitoring bodies associated with these instruments. Croatia, which has just been admitted to the Council of Europe, has also declared its commitment to honouring the provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms and those of the Helsinki Conference Final Act.

113. Croatia has entered into a number of bilateral and multilateral agreements designed to protect the interests of minority groups. These include a Memorandum of Understanding signed with the Government of Italy in 1992 on the protection of the Italian minority in Croatia, a Declaration on Minority Rights adopted jointly with Hungary and Ukraine, and other agreements reached with Slovenia and Romania. Of special note, and discussed below, is the agreement concluded with the Federal Republic of Yugoslavia on 23 August 1996, which represents an important step forward for the protection of the Serb and Croat minorities in the two countries.

3. National recourse mechanisms open to members of minorities

114. The Constitutional Law on Human Rights specifies, in article 61, that districts with a "special status", i.e., designated Serb-majority districts, can lodge a complaint with the Constitutional Court if they believe that decisions of the authorities have violated the rights of a protected community or minority. However, Croatia, by its decisions of September 1995, also suspended the application of article 61. The Constitutional Law on Human Rights further refers to the creation of a Provisional Court of Human Rights. The establishment of this mechanism failed to materialize, despite strong recommendations from numerous authorities, including the Special Rapporteur. The Council of Europe has now determined the establishment of such a court to be inappropriate, since Croatia will likely soon join the Council and thus be subject to the jurisdiction of the European Court of Human Rights. However, the Council's European Commission for Democracy through Law (Venice Commission) has recommended instead that Croatia consider the passage of constitutional amendments which would revise the functioning of the

Constitutional Court, allowing it to sit as an enlarged body, supplemented by international judges, when it is seized of questions concerning minority rights. 10/

115. Regarding the suspension of provisions of the Constitutional Law on Human Rights, the Venice Commission took the position that "the suspension of the law was not indispensable". The Commission continued, "The provisions could validly have continued in force, although in that case they would not for the moment have any practical application because of the demographic changes which have occurred ... . Moreover, the Rapporteurs remain concerned at the discouraging psychological effect that the suspension would certainly have on minorities and displaced populations which would like to remain in or return to Croatia ... . In the opinion of the Rapporteurs, the Constitutional Law of 1991 deprived of its above provisions cannot be said to constitute an adequate response to the new situation. A revision of the suspended provisions is necessary ... ". 11/

116. Croatia adopted a law creating an Ombudsman (in Croatian, pucki pravobranitelj, or "defender of the people's rights") in 1992. The Ombudsman, who under the law shall be a person known for personal engagement in human rights, has considerable freedom to investigate allegations of human rights abuses. The office by law is independent, and is to be undertaken in view both of Croatian law and the country's international obligations. The Ombudsman can receive individual complaints, has access to all official documents, and can initiate criminal and disciplinary proceedings, although the office has no power to issue enforceable decisions.

117. The Special Rapporteur has previously expressed concern regarding the record of the Ombudsman in Croatia. 12/ The first Ombudsman, appointed in 1993, reportedly made little effective use of the office. A new Ombudsman was appointed in June 1996. The Croatian Government has notified the Special Rapporteur that the Ombudsman's office will soon be strengthened by increasing the number of deputies from 3 to 20, permitting the office to be represented in every county in the country.

4. Citizenship

118. As has been noted earlier, meaningful access to citizenship is a prerequisite to full access to the benefits of a State's protection, including the protection of minority rights. Following a State's dissolution, minorities in successor countries can face unusual difficulties in resolving their citizenship status. Reports indicate that this has been the case in Croatia.

119. The Croatian parliament adopted the Law on Citizenship in 1991. The Special Rapporteur has been informed that minority residents of Croatia, and particularly Serbs, have encountered difficulty in acquiring citizenship to which they would appear to be entitled. Problems have arisen in part from the provision of the Law which requires that citizenship depends, among other things, on a conclusion that an applicant is "attached to the legal system and customs persisting in the Republic of Croatia and that he or she accepts the Croatian culture" (art. 8). According to article 26, the Ministry of Interior

may deny a petition for citizenship "if it is of the opinion that there are reasons of interest for the Republic of Croatia" for such a denial. The Special Rapporteur has received reports of citizenship being denied, without further explanation, to Croatian Serbs on these bases.

120. The question of access to citizenship has acquired a special urgency with respect to persons residing in the former Sectors who, during the existence of the de facto Serb regime, never had the opportunity to apply. Croatia has now established offices in the former Sectors West, North and South to process applications for citizenship and other social benefits, and with the assistance of UNTAES has undertaken similar measures for persons residing in the former Sector East. The Special Rapporteur has been informed that in some locations application procedures for citizenship and entitlements have proceeded efficiently, while in others requests from Croatian Serbs appear to have become stalled. Reports have been received, particularly from the former Sectors North and South, that Serbs have faced hostility and lack of cooperation from local government officials in the processing of applications.

121. Problems have also been noted for persons, including Muslims, who before the war resided in Croatia across the border from Velika Kladusa in Bosnia and Herzegovina and who sought refuge in the Velika Kladusa area during the four years of hostilities. These persons' departure from Croatia reportedly has been used as grounds for denial of citizenship to them upon their return.

122. A major citizenship question is posed by the situation of more than 200,000 Croatian Serb refugees now residing in the Federal Republic of Yugoslavia. While many of them who may wish to return to Croatia possess valid claims to citizenship, their inability to prove eligibility under present circumstances places them in a difficult position, rendering them for practical purposes stateless. Croatia has failed so far adequately to address this problem, and instead has used these persons' absence from Croatian territory to justify the decision suspending constitutional provisions related to the rights of the Serb minority. The situation of these Croatian Serbs may be compared to that of expatriate Croats who, even if they have no intention at present of returning to Croatia, may acquire Croatian citizenship abroad and be permitted by law to vote in Croatian elections.

C. The situation of Serbs currently in Croatia

1. Personal security

123. The situation of Serbs still in the former Sectors West, North and South is one of the most serious human rights concerns in Croatia. The Special Rapporteur has detailed at length in previous reports the pattern of violent human rights abuses suffered by Croatian Serbs in these areas in the aftermath of last year's military operations "Flash" and "Storm", and the Croatian Government's failure to take effective protective action. 13/ United Nations officials estimated that at least 150 killings and 5,000 cases of arson were perpetrated in the weeks following the conclusion of military operations.

International observers attributed the prevailing climate of lawlessness in part to an absence of an adequate and professional police force in the region. 14/

124. In a letter to the Chairman of the Commission on Human Rights dated 22 August 1996, the Special Rapporteur relayed her most recent impressions following a mission she conducted to former Sectors North and South earlier that month. The letter stated in part:

> "Unfortunately, one year after Operation Storm, it is evident that the Croatian authorities are still not providing adequate security to the residents of former Sectors North and South. During my mission I learned of numerous recent cases of looting, arson and harassment in the region, in which most of the victims have been Croatian Serbs. There is also an ominous new problem of bombing incidents, which have caused at least three deaths. I met one woman who was badly injured, along with her husband, when a device exploded as they were entering their house near Korenica on 24 May 1996. She suffered a broken arm and numerous serious shrapnel wounds, while her husband, who is still in hospital, suffered two broken legs ... .
>
> "Mr. Chairman, the continuing state of insecurity in former Sectors North and South so long after last summer's military operations leads me to conclude that there apparently is an unwillingness on the part of the Croatian authorities to take strong preventive measures to ensure the safety of local residents. I am deeply concerned at this situation for many reasons, including its likely effect on the decisions of Croatian Serbs who are considering either remaining in - or returning to - the area ...".

125. The Croatian Minister of Foreign Affairs responded to the Special Rapporteur's comments regarding violent incidents in a letter addressed to the Chairman of the Commission on Human Rights in September 1996. The Minister wrote in part:

> "In order to ensure law and order in the liberated territories, the Croatian Government has to date undertaken significant measures towards providing security to the population living in these areas, including the deployment of additional police forces. These measures cannot be put into question despite the few regrettable incidents referred to in the Special Rapporteur's letter.
>
> "[S]everal problems were initially encountered due to the lack of adequate law enforcement personnel deployed in these areas, though notable improvements have been made to date in this respect. Indeed, Croatia's positive efforts have been acknowledged in several reports by the Secretary-General, the High Commissioner for Human Rights, and the Special Rapporteur herself".

126. However, despite measures which the Government says have been taken, violent incidents against Croatian Serbs in the former Sectors have continued to be reported up to September 1996. For example, a couple of mixed (Serb and Croat) nationality was killed and their house destroyed by arson in an attack in the village of Bukovica (former Sector North) on 11 September 1996. On 2 September, a Serb woman was assaulted by three looters in Marici (former Sector South) when she tried to prevent them from taking roof tiles from her home. The men pelted her with stones and fired a pistol at her as she ran away.

127. The Special Rapporteur has noted other areas of concern to Serbs in Croatia, including the question of property rights. During her mission in August 1996 she learned of numerous cases of Croatian Serbs who, attempting to return to their homes in the former Sectors, have been unable to gain possession of them because they are occupied by Croatian refugees, most of whom are from Bosnia and Herzegovina. While the Special Rapporteur believes that refugees as a group do not deserve blame for this situation, it is clear that the Croatian authorities must act firmly to safeguard property rights of Serbs in the former Sectors. Another area of concern, already noted above, involves difficulties which Croatian Serbs have encountered in acquiring documents necessary to obtain social benefits. On the other hand, the Government of Croatia should be given credit for positive steps it has taken in cooperation with international agencies, to alleviate the humanitarian plight of Croatian Serbs still residing in the former Sectors West, North and South, many of whom are elderly.

128. The success or failure of Croatia's measures to create acceptable conditions of security and dignity for members of its Serb population in the former sectors will finally be revealed by the number of Serb refugees from among the 150,000 to 200,000 now in the Federal Republic of Yugoslavia who are able and willing to return to the country. As of 12 October 1996, the Croatian Government reported that some 12,000 had received permission to return, mostly on the basis of proof of citizenship and family reunification. However, in a mission to the former Sectors North and South in August 1996, the Special Rapporteur concluded that fewer than 2,000 of these persons appeared actually to have returned to their residences in the sectors themselves.

129. The Special Rapporteur in reports issued since 1993 has described problems encountered by members of Croatia's Serb population at locations throughout the country. These have included incidents of killings apparently motivated by nationality, such as those of the Zec family in Zagreb in 1991 and of suspected Serbs in the Lora military barracks in Split in 1992, 15/ neither of which has been resolved by the authorities. The Special Rapporteur has provided extensive information on violent evictions, mostly of Serbs, from State-owned properties, which generally have gone unremedied by the courts, and on discrimination in employment. 16/ There have also been incidents of incitement to nationality-based hatred in public statements, with no evidence of appropriate legal action taken to redress them. 17/

130. The question of culture-sensitive education for Serbs, in conformity with Croatia's national and international legal obligations, has posed a

problem in Croatia. Little action was taken on this issue during the hostilities between the Government and the "RSK". Some educational programmes on Serb religious culture were offered in certain communities, including Pula, Rijeka and Gorski Kotar. However, references to Serb history, literature and culture were reportedly dropped from many school curricula, and there was no instruction in the use of the Cyrillic alphabet, which historically has been used by Serbs. At present Serbs in Croatia still lack specialized textbooks about their language, culture and history. For the last several years, however, the Serbian cultural association Prosvjeta has worked with the Croatian Ministry of Education and Sport to elaborate a programme of education for elementary schools. On 23 September 1996 the Ministry agreed to implement recommendations made by Prosvjeta for the provision of special educational programmes for Croatian Serb students. The Special Rapporteur further acknowledges the summer school for some 57 Serb children held in August 1996 in Peroj, organized by the Ministry of Education in cooperation with Prosvjeta.

2. Future prospects for the Serb community

131. An example of Croat and Serb communities living together in peace and cooperation in Croatia which offers hope for the future is to be found in the region of Gorski Kotar, in the western part of the country between Zagreb and Rijeka. Despite the fighting which broke out between Croats and Serbs a few kilometres away, the people in this region have followed a path of mutual respect since Croatia's declaration of independence. Serbs, who in some communities make up a majority of the local population, have proportional representation in bodies of local government and hold a reasonable proportion of local jobs. A local branch of Prosvjeta has been established which intends to work towards the promotion of Serbian cultural identity within the Croatian legal framework.

132. It is hoped that major initiatives taken during the past year, including the signing of the Basic Agreement on Eastern Slavonia, Baranja and Western Sirmium in December 1995 and the Agreement on the Normalization of Relations between the Republic of Croatia and the Federal Republic of Yugoslavia, signed in August 1996, will lead to increased observance of the rights of Croatia's Serb population. The latter agreement contains important commitments including, at article 8, the parties' guarantee to Serbs and Montenegrins in the Republic of Croatia, and to Croats in the Federal Republic of Yugoslavia, that they shall have "all the rights they are entitled to under international law".

D. The situation of other minorities in Croatia

133. Apart from Serbs, the 1991 census indicated that the largest minorities in Croatia, none numbering more than 50,000 persons, were Muslims (43,000), Hungarians (22,000), Slovenians (22,000), Italians (21,000) and Czechs (13,000).

134. Under the Constitutional Law on Human Rights, members of minority communities whose population is below 8 per cent of the national total are entitled to elect between them a total of five representatives to the House of

Representatives of the Croatian Parliament. The law further provides that such minorities are entitled to be represented in bodies of local self-government in proportion to their share of the local population.

135. Muslims, who are Croatia's second-largest minority group, appear to have been denied the full range of their rights despite the group's significant size. Of the five representatives of minority groups numbering less than 8 per cent of the population currently in the parliament, none is Muslim, leaving this group without political representation. Problems encountered by Muslims in acquiring Croatian citizenship have already been mentioned above, and the Special Rapporteur has also received reports of discrimination in employment. In the cultural realm, the Muslim community has worked to preserve its identity, including through the activities of its mosque in Zagreb and the cultural society Preporod.

136. Italians constitute some 10 per cent of the local population of about 200,000 persons on the Istrian peninsula in Croatia's far west. The Italian minority has formed effective political parties and exerts substantial influence locally in Istria. However, there has been some tension with the Government in Zagreb over the extent of self-rule in the region. In February 1995, the Constitutional Court repealed 18 of 36 provisions of the Statute of the County of Istria, some dealing with the use of languages, finding the provisions to be outside the scope of local authority. Disagreements have also occurred on the question of control over local tax revenues.

137. The Italian minority has put together programmes for the preservation of their cultural identity, particularly in education. The local media also effectively address issues of interest to the Italian minority. According to the Government, a bilateral agreement with Italy concerning minority protection is due to be ratified shortly.

138. In the cultural realm, Croatian law makes numerous provisions for promoting the identity of national minorities. According to the Government, schools attended by minority pupils have their own special curricula in addition to standard ones, designed to teach history, geography, art and music to students in their native language. Special curricula are now available for members of the Italian, Hungarian, Czech, Slovak, Ruthenian and Ukrainian minorities. Decisions are made locally by minority communities themselves, in consultation with the local educational authority, as to the precise curriculum to be used in different schools. Most textbooks in use in Croatia are translated from Croatian into minority languages for use in these schools.

139. The Government has advised the Special Rapporteur that in 1995 the Romany Union of Croatia printed a collection of studies dealing with the subject of Romany education in Croatia, the first-ever printed literature on this topic in the country. In August 1995 a "Summer School for the Romany Children of Croatia" was organized with the assistance of the Ministry of Education and Sport and the Union of Romany Associations in Croatia, which brought together some 50 primary school children.

140. Numerous publications and radio programmes are available to minority communities in their own languages, and the State television occasionally broadcasts programmes about or for minority communities. Cultural societies throughout the country produce events, including theatrical pieces and concerts, in different languages, and libraries and museums exist to preserve and promote cultural heritage.

E. Conclusions and recommendations

141. The terrible consequences of the war in Croatia place an exceptional responsibility on the Government to take strong measures to promote the rights of Croatian Serbs. Unfortunately, despite some positive measures, the Government has also taken several significant steps backwards. Croatia should act immediately to reinstate constitutional provisions it has suspended, not least because many of the law's beneficiaries are persons eligible for Croatian citizenship who are currently refugees in the neighbouring Federal Republic of Yugoslavia.

142. Although the Government states that it has taken strong measures to provide adequate security for Serbs remaining in the former Sectors, evidence of continuing abuses and lawlessness indicates that these measures are insufficient. Reports of lack of access to citizenship documents, discrimination in employment and other problems lead to the conclusion that Serbs have, indeed, suffered an erosion of their legal position with the passage of the 1991 Croatian Constitution.

143. The civil war in Croatia caused indescribable suffering to Croatian citizens, Serbs and Croats alike. It is essential that the two peoples seize the opportunity provided by peace to re-evaluate their relationship. Serbs must accept that redress for their grievances can be sought through the legal structures of the Croatian State, and the Croatian Government must ensure that these structures function in an impartial and effective manner. The Government should, furthermore, take the opportunity provided by the recent agreement on normalization of relations with the Federal Republic of Yugoslavia to use the agreement, as it had previously indicated to the Special Rapporteur, that it would, to facilitate the return to Croatia of Serbs with valid claims to Croatian citizenship.

144. The rights of ethnic and national communities and minorities in Croatia are guaranteed by various provisions of domestic and international law. Some concerns have been raised as to the implementation of these laws. The Special Rapporteur has therefore been encouraged by initiatives undertaken by the authorities to promote a special school curriculum for Serbs in Croatia, in cooperation with the cultural association Prosvjeta.

145. In order to reinforce peace between national groups, confidence-building measures should be undertaken with an emphasis on community life. The Special Rapporteur applauds the implementation of various development and socio-economic projects aimed at breaking down barriers between Croats and other groups in Croatia. She emphasizes the responsibility of group leaders to promote harmonious inter-ethnic relations.

IV. GENERAL CONCLUSIONS AND RECOMMENDATIONS

146. The protection of minority rights is only one of the many human rights obligations of both the Federal Republic of Yugoslavia and the Republic of Croatia. The question of minority rights, however, is especially pertinent in the context of the former Yugoslavia. Troubled relations between national groups and the Governments responsible for their welfare were a cause of the war which devastated the region from 1991 to 1995. It is clear that the maintenance of peace depends to a large extent on the progress made by countries in the region in this critical area. Failure to resolve the problems faced by minority populations, notably the minority populations in the entities of Bosnia and Herzegovina, carries the threat of renewed conflict.

147. The Agreement on the Normalization of Relations between the Republic of Croatia and the Federal Republic of Yugoslavia, signed at Belgrade on 23 August 1996, does not assign obligations to either of the parties in the field of minority rights which they did not already have. Nevertheless, the agreement is an important political initiative which can lead to an improvement in the situation of minority populations in both countries. The Governments should be encouraged to continue to move forward on the basis of the steps which have already been taken.

148. International organizations can make a valuable contribution to countries' own initiatives to promote respect for human rights on their territories. The Republic of Croatia has continuously engaged in constructive cooperation with international entities, including the Special Rapporteur and the Office of the High Commissioner for Human Rights. Croatia's recent acceptance of the presence of an OSCE mission which will pay special attention to the question of minority rights is another demonstration of this cooperation.

149. The Special Rapporteur was gratified by the Federal Republic of Yugoslavia's acceptance of the establishment of an office of the High Commissioner for Human Rights in Belgrade in February 1996. The office currently is staffed by three persons. The Special Rapporteur believes that willingness by the FRY Government to consider permitting a larger international presence on its territory for both monitoring and advisory activities would be a positive step towards easing existing tensions. In particular, she believes that international monitors in Kosovo and the Sandzak region could have a beneficial impact. The Special Rapporteur also urges the FRY Government to consider establishing an ombudsman-type institution at the national level to assist in the resolution of human rights problems, including problems relating to minority rights.

150. The values promoted in education are of fundamental importance in advancing human rights in societies generally. For this reason the Special Rapporteur wishes to reiterate her call for the inclusion of human rights courses in curricula throughout the territory of the former Yugoslavia.

151. Local non-governmental organizations are among the most important agents of social change. NGOs throughout the former Yugoslavia, including in Croatia

and the Federal Republic of Yugoslavia, have played an extremely important role in illuminating problems and in bringing peoples together. Their efforts must receive strong support from the international community. The Special Rapporteur is aware of numerous resources which can be helpful in assisting non-governmental organizations, including the technical cooperation expertise of the Office of the High Commissioner for Human Rights and the programme for confidence-building measures developed by the Council of Europe. It is hoped that these resources can be applied to promote both minority rights and human rights generally of all people in the region.

152. As noted at the beginning of this special report, the question of minority rights is of vital importance throughout the territory of the Special Rapporteur's mandate. Just as the situations of minorities in the Federal Republic of Yugoslavia and Croatia are interrelated, so too are those of other countries in the region. For example, although consideration has been given to the situation of ethnic Albanians in the Federal Republic of Yugoslavia, the Special Rapporteur is aware of the relevance to this question of the situation of ethnic Albanians in the neighbouring former Yugoslav Republic of Macedonia. Indeed, one of her inspirations in preparing the present report was the recommendation to consider this question made to her by the President of the former Yugoslav Republic of Macedonia. The Special Rapporteur intends to continue her consideration of the situation of minorities throughout the territory of her mandate, and she hopes that the present report is a useful preliminary contribution to the illumination of this most important issue.

Notes

1/ The key provision of the ICCPR relating to minority rights is article 27: "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language."

2/ The address of MRG is 379/381 Brixton Road, London SW9 7DE, United Kingdom, telephone 44(0) 171-978-9498.

3/ In the 1960s, a decision was taken to recognize Muslims as a nation, on an equal footing with the country's other "constituent nations".

4/ All republican citizens by law became, simultaneously, citizens of the SFRY (art. 249).

5/ See Dimitrijevic Vojin, "Nationalities and Minorities in the Yugoslav Federation", in The Protection of Minorities and Human Rights, Yoram Dinstein and Mala Tabory (eds.), Martinus Nijhoff Publishers (Dordrecht, 1992), pp. 419-433.

6/ The figure is an official estimate, since many Albanians declined to participate in the census.

7/ These include the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Final Act of the Conference on Security and Cooperation in Europe (Helsinki Conference Final Act), the European Convention for the Protection of Human Rights and Fundamental Freedoms and its protocols, and the International Convention on the Elimination of All Forms of Racial Discrimination.

8/ Article 21 of the Constitution proclaimed two Serb-majority districts centred around the towns of Glina and Knin close to the border with Bosnia and Herzegovina as having special political status; they were soon to become parts of Sectors North and South in the breakaway "RSK".

9/ See, for example, S/PRST/1996/29 (3 July 1996).

10/ European Commission for Democracy through Law (Venice Commission), "Report on the Implementation of the Constitutional Law on Human Rights and Freedoms and on the Rights of Ethnic Communities and Minorities in the Republic of Croatia," (Strasbourg, 24 May 1996).

11/ Ibid. para. 9.

12/ See, e.g., E/CN.4/1994/110 (21 February 1994).

13/ See A/50/727-S/1995/933, annex (7 November 1995); E/CN.4/1996/63 (14 March 1996).

14/ See, for example, S/1996/456 (21 June 1996); S/1996/109 (14 February 1996).

15/ See A/49/641-S/1994/1252 (4 November 1994).

16/ Ibid. See also, for example, E/CN.4/1994/110 (21 February 1994); E/CN.4/1995/57 (16 January 1995).

17/ See, for example, E/CN.4/1995/54 and Corr. 1 ("Special report on the media") (13 December 1994).

- - - - -

UW

UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1997/9
22 October 1996

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-third session
Item 10 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Situation of human rights in the territory of the former Yugoslavia

Periodic report submitted by Ms. Elisabeth Rehn, Special Rapporteur of the Commission on Human Rights, pursuant to paragraph 45 of Commission resolution 1996/71

CONTENTS

	Paragraphs	Page
Introduction	1 - 2	4
I. BOSNIA AND HERZEGOVINA	3 - 37	4
A. Elections	4 - 10	4
B. Freedom of movement	11 - 12	6
C. The right to voluntary return	13 - 20	7
D. Personal security and property issues	21 - 24	8
E. Detention issues	25	9

GE.96-14163 (E)

CONTENTS (continued)

		Paragraphs	Page
	F. Silent emergencies	26 - 28	10
	G. Rights of the child	29	10
	H. Conclusions and recommendations	30 - 37	11
II.	REPUBLIC OF CROATIA	38 - 72	12
	A. Personal security in the former sectors	41 - 44	13
	B. Humanitarian and social issues	45 - 49	14
	C. The return of Croatian Serb refugees	50 - 53	15
	D. The question of amnesty	54 - 57	16
	E. The practice of illegal and forcible evictions	58 - 59	16
	F. The situation of the media	60 - 63	16
	G. Measures for the protection of human rights	64 - 65	17
	H. Conclusions and recommendations	66 - 72	18
III.	THE REGION OF EASTERN SLAVONIA, BARANJA AND WESTERN SIRMIUM	73 - 93	19
	A. Security of the person	76 - 77	19
	B. Displaced persons and the question of property	78 - 80	20
	C. Right to a nationality	81 - 82	21
	D. Missing persons	83 - 84	21
	E. Elections	85	21
	F. Joint Implementation Committees	86 - 88	22
	G. Conclusions and recommendations	89 - 93	22

CONTENTS (continued)

		Paragraphs	Page
IV.	FEDERAL REPUBLIC OF YUGOSLAVIA	94 - 137	23
	A. Legal guarantees for the protection of human rights	99 - 100	24
	B. Security of the person	101 - 103	25
	C. The right to life	104	25
	D. Freedom of expression and the media	105 - 111	26
	E. The situation of refugees	112 - 114	27
	F. The Law on Citizenship	115 - 116	28
	G. The situation of minorities	117 - 124	28
	H. Non-governmental organizations and avenues for redress	125 - 126	30
	I. Conclusions and recommendations	127 - 137	31
V.	GENERAL CONCLUSIONS AND RECOMMENDATIONS	138 - 142	32

INTRODUCTION

1. Since the submission of her last comprehensive report to the Commission on Human Rights in March 1996 (E/CN.4/1996/63), the Special Rapporteur has conducted five missions to the territory of the former Yugoslavia, visiting locations throughout Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia. The Special Rapporteur has also kept herself informed of developments in the former Yugoslav Republic of Macedonia. She has received extensive assistance on her missions, and in the gathering of information generally, from the Field Operation of the High Commissioner for Human Rights, with its headquarters in Sarajevo and offices in Zagreb, Vukovar, Belgrade, Banja Luka, Mostar and Skopje.

2. The Special Rapporteur wishes to express her appreciation to the Governments of the States included in her mandate for the cooperation and support which they have provided to her since she assumed her post in September 1995. She is also grateful to the many intergovernmental and non-governmental organizations, too numerous to list, which have shared with her their insights concerning the human rights situation in the former Yugoslavia. While the Special Rapporteur's conclusions are entirely her own, they are the result of her continuing communications both with Governments and with many different organizations and individuals.

I. BOSNIA AND HERZEGOVINA

3. During her missions to Bosnia and Herzegovina since the submission of her last comprehensive report, the Special Rapporteur has travelled throughout the country and met with State authorities as well as those of the entities, the Republika Srpska and the Federation of Bosnia and Herzegovina. She has been assisted in her work by numerous international organizations, including the Office of the High Representative, Mr. Carl Bildt. She has also received a great deal of useful information from non-governmental organizations in the country, most of which are located in Sarajevo. The Special Rapporteur has continued to place emphasis on receiving testimonies directly from persons who have been subjected to, or have personal knowledge about apparent human rights violations.

A. Elections

4. The Special Rapporteur has been greatly concerned about the elections in Bosnia and Herzegovina, which have taken place or will take place pursuant to the General Framework Agreement on Peace in Bosnia and Herzegovina of November 1995 (the Dayton Agreement). In this regard she has already issued a special report on human rights and the forthcoming elections (E/CN.4/1997/5), which should be read in conjunction with the present report.

5. Elections for national and entity institutions were held on 14 September 1996. Two weeks before, on 27 August 1996, a decision had been made by the Provisional Election Commission (PEC) of the Organization for Security and Cooperation in Europe (OSCE) to postpone municipal elections, which are now set to take place on 23 and 24 November 1996. The decision was taken because of the concern that the vast majority of Serbian refugees and

displaced persons in the country had registered as voters of municipalities in which they had never lived - and to which they allegedly had no intention of moving - at the expense of Bosniaks displaced from the same locations. The areas in question included Srebrenica and Brcko, from which tens of thousands of Bosniaks had been violently displaced during the years of war between 1992 and 1995. The registration procedure has been regarded as a serious violation of the principles adopted for the elections, as well as of those of the Dayton Agreement.

6. Although this concern was one of the main reasons for the postponement of the municipal elections, there were in fact numerous problems in connection with the elections of 14 September 1996 associated with the deprivation of civil and political rights. In a letter to the Chairman of the Commission on Human Rights dated 22 August 1996 and distributed at her request to the members of the Commission, the Special Rapporteur observed, among other things, that although conditions for free and fair elections did not then exist, it was necessary for the balloting to proceed as scheduled in September. Public expectations that the elections would go ahead were at that time very high, and the small opposition parties as well as non-governmental organizations saw the elections as the first step towards gaining a voice in the country's civil society. There was, furthermore, still some reason, albeit slight, to hope that conditions for voting would improve. Unfortunately, little improvement was registered by 14 September, nor has there been notable progress since.

7. That conditions for free and fair elections in Bosnia and Herzegovina still do not exist is a serious concern. There are still no reliable mechanisms to prevent the registration process from being manipulated to encourage displaced persons and refugees to cast their votes in strategically important municipalities. The Special Rapporteur has therefore suggested that the municipal elections be postponed until the required conditions are met. The date on which they are held is not the most important consideration, rather, it is the existence of conditions which are at least close to international standards of freedom and fairness.

8. The elections of 14 September 1996 suffered owing to, among other reasons, restrictions on free political expression, free association and free movement. Opposition voices were rarely heard in the media, and opposition party members were frequently the target of threats and discrimination. Reports of intimidation were received from throughout the country, as were reports of persons losing their employment, especially in State enterprises, because of their political affiliations. The availability of independent media generally and the accessibility of media controlled by the ruling parties to opposition candidates were limited, particularly in the Republika Srpska and in areas of the Federation controlled by Bosnian Croats. On Government-controlled television in the Republika Srpska, campaign publicity for opposition parties was aired mainly late at night, and then only for a minute or two. Reports were received from the Republika Srpska of intimidation and harassment of independent media which had published information articulating the position of opposition parties.

9. In view of her mandate, the Special Rapporteur is not offering a more detailed analysis of the elections of 14 September 1996. This task, in any

case, has been ably accomplished by other observers and participants, including bodies of the OSCE itself. It should be borne in mind that elections should be judged in their entirety, not only on the basis of election-day events but on the whole campaign process. The range of opinion on the process culminating in the vote of 14 September 1996 indicates, however, that the elections were surely not "free and fair". Nevertheless, it is clearly in the interests of the parties and the people of Bosnia and Herzegovina to proceed on the basis of their official results.

10. The country is now confronted with the task of institution-building. Technical and political problems have so far led to a "blockade" on the activities of the new institutions, as exemplified by the failure to convene the new National Assembly in its entirety on 5 October 1996. Newly elected Serb representatives declined to attend the inaugural ceremony in Sarajevo, citing fears for their security. Political leaders face security concerns in areas throughout the country. In Mostar on 30 September 1996, a newly elected member of the Federation Parliament who has been critical of the ruling Croatian Democratic Union (HDZ) party was injured in a machine-gun attack on his home on the west side of the city. The day before a hand grenade had been thrown onto the property. In the Una-Sana canton in the north-west of the country, representatives from the party headed by Mr. Fikret Abdic have expressed fears for their security. This situation will need to be addressed globally by all responsible authorities.

B. Freedom of movement

11. Restrictions on freedom of movement, violating provisions of the Dayton Agreement as well as of international law, continue to be widespread in Bosnia and Herzegovina. Obstructions have been recorded at or near the Inter-Entity Boundary Line (IEBL), as well as between territory controlled by Bosniak and Bosnian Croat authorities in the Federation of Bosnia and Herzegovina. The majority of incidents occurring at the IEBL have taken place on territory under the jurisdiction of the Republika Srpska. Serious problems have been noted along the road between Sarajevo and Gorazde, as well as near Doboj and Mrkonic Grad. Illegal police checkpoints remain a common phenomenon throughout the country, and numerous travellers, mostly Bosniaks, have been fined, and in some cases detained. On 18 September 1996 the Bosnian Deputy Minister of Education was briefly detained by Republika Srpska police at the IEBL near Kula. The Office of the United Nations High Commissioner for Refugees (UNHCR) has attempted to alleviate restrictions on freedom of movement by establishing bus lines for inter-entity travel, but even these initiatives have been frustrated by local authorities.

12. In the vicinity of Rogatica, in the Republika Srpska it appears that the shuttle bus operating on the so-called interim route between Sarajevo and Gorazde is attacked by stone-throwers almost every second day. Cantonal authorities in Gorazde reportedly have decided for security reasons to start an alternative bus route to Sarajevo through Foca and Trnovo. This route is essential since without access to Sarajevo, Gorazde may be effectively isolated during the winter. Reports have been received that Serbs among the local population in Trnovo have expressed dissatisfaction that the town will be used for the transit of buses carrying Bosniak citizens, and the Republika Srpska's regional police chief was quoted as saying that the safety of

Bosniaks along the road cannot be guaranteed. In a particularly deplorable incident, an ambulance was stoned near Rogatica on 6 October 1996 as it attempted to transport a person to Sarajevo for emergency medical treatment.

C. The right to voluntary return

13. Although a few individuals have returned to their homes in areas dominated by authorities of a different nationality, there has been virtually no organized return of larger numbers of refugees and displaced persons, despite the provisions of annex 7 of the Dayton Agreement. During recent months a number of serious incidents occurred in the Zone of Separation (ZOS) between the two entities. Groups of displaced Bosniaks have attempted to return to their homes located in villages throughout the ZOS with the intention of rebuilding their destroyed houses. The best-known examples are the villages of Mahala and Jusici, where the authorities of the Republika Srpska took steps to prevent such returns.

14. Republika Srpska police blocked the return of some 100 Bosniaks to their home town of Mahala, near Zvornik, on 29 August 1996. When the returnees approached the vicinity, the police warned them not to proceed and fired tear-gas canisters; some 10 Bosniaks reportedly were injured. A second attempt to return two days later similarly failed.

15. On 20 September 1996 a group of more than 100 Bosniaks, some of them armed, entered the village of Jusici, near Zvornik, for the declared purpose of repairing and reoccupying their homes. The village, which had been almost totally destroyed during the war, is located in the ZOS where weapons are banned by the terms of the Dayton Agreement. Republika Srpska authorities, stating that they viewed the incident as part of an attempt effectively to cut the Serb entity in half, demanded that the Bosniaks withdraw. The area has remained a site of extreme tension.

16. On 11 October 1996 the Special Rapporteur made a personal visit to Jusici. Her main purpose was to familiarize herself with the situation by obtaining first-hand information, following an invitation she had received from representatives of the would-be returnees. Early that same morning, five houses in the village had been damaged by explosions. Upon her arrival the Special Rapporteur learned that heavily armed Republika Srpska police had taken three Bosniak men into custody a few hours earlier (the Special Rapporteur later met with one of them, who had been released). Women of the village, armed only with sticks, attempted to block the movement of soldiers of the Implementation Force (IFOR) who were present. The Special Rapporteur offered her support to help calm the confrontation. She pointed out that the villagers had the right to return peacefully to their homes and that weapons were prohibited in the area.

17. The Special Rapporteur went from Jusici to Zvornik where she met with representatives of the Republika Srpska police, the International Police Task Force (IPTF) and IFOR to report her impressions. The local Republika Srpska police commander stated that the villagers were welcome to return to Jusici, but would have to recognize the Republika Srpska's administrative authority over the location and to observe the procedures proposed by international agencies. The Special Rapporteur, at her request, met with the remaining two

Bosniaks in Zvornik, who had been accused of carrying weapons. It appeared that these men had not been physically mistreated by the authorities. In her discussions with all concerned, the Special Rapporteur acknowledged the high level of tension in the Jusici situation, and suggested that it could be resolved through the establishment of a local joint committee. Fortunately, the immediate problem of the detentions in Jusici was resolved an hour later when the remaining two Bosniaks were freed; the freedom of movement of the IFOR soldiers was also restored.

18. The situation observed by the Special Rapporteur at Jusici was a dramatic example of the difficulties which lie ahead for the exercise of the right to return in Bosnia and Herzegovina, in particular in the ZOS. The Special Rapporteur notes with concern that authorities of the Republika Srpska allegedly plan to resettle Serb displaced persons from Sarajevo in the ZOS in an attempt to strengthen their side of the IEBL. It is clear that extensive dialogue between the parties and the assistance of impartial mediators will be necessary to resolve this emotionally charged issue.

19. Owing to the sensitivity of these areas in strategically important regions, the international community has attempted to regularize the implementation of the right to return. On 15 October 1996 the Office of the High Representative (OHR), UNHCR, IFOR, IPTF and the office of the European Commission established, after consultation with officials of Bosnia and Herzegovina and its two entities, a "Procedure for Return and Reconstruction in the Zone of Separation". According to article 1 of the document, property owners "have the right to reconstruct their houses and to re-inhabit them. This right derives from the right to property (annex 6 of the Peace [Dayton] Agreement) and from the right to freely return to homes of origin. At the same time, these rights are to be exercised in an orderly and phased manner (annex 7)". The document requires returnees first to prove ownership of property in the communities at issue. A commission has been established composed of UNHCR as chair, OHR, IFOR and IPTF to decide on applications for return. Whether this initiative will be successful in facilitating returns remains to be seen.

20. Within the Federation as well, slow progress has been recorded on the question of return. For example, Bosniaks have not yet returned to their homes in the Bosnian Croat-controlled town of Stolac. Some limited house repairs have taken place, but it is reported that this was only possible owing to the presence of IPTF and IFOR contingents. In Jajce 202 Bosniak families have returned to their homes as part of a pilot project undertaken with the assistance of UNHCR, but it is reported that three other families, not officially registered in the project, have been turned away by local Bosnian Croat authorities. On 12 May 1996, a crowd of Bosniaks reportedly prevented some 200 Serbs from entering Bosanski Petrovac and burned several homes belonging to Serb families.

D. Personal security and property issues

21. Persons residing in areas dominated by members of another national group continue to face the threat of harassment, assault, forcible eviction and even mortal injury because of their nationality. The Special Rapporteur has already expressed her grave concern at the apparent killing in detention of

Mr. Hasan Kovacevic, a Bosniak, who died within 13 hours of his arrest by Republika Srpska authorities in Banja Luka in August 1996. The Special Rapporteur inquired into this case personally during her visit to the police station in Banja Luka in August 1996. An autopsy reportedly had revealed that the victim had suffered 16 broken ribs.

22. The Special Rapporteur has been apprised of an increased number of cases of eviction throughout the country. It should be pointed out that these evictions have taken place on the territory of both entities. For example, evictions based on nationality have been a serious problem in the Sarajevo area. It was reported in Vogosca on 20 August 1996 that a Bosniak family had moved into a flat belonging to a Serb, evidently with official approval, when the latter left the area for a two-week visit to the Federal Republic of Yugoslavia. Tensions in Vogosca have been high between the few remaining Serbs - some 500 or so - and displaced Bosniaks, particularly from Srebrenica, seeking accommodation in the area. In Novo Sarajevo a Serb resident reportedly left her home one morning to go to the post office and when she returned, found that two men had broken the lock and moved into the premises, with a permit from the municipality. The permit stated that the property was unoccupied. Another incident was reported on 29 September 1996, when four Bosniaks allegedly broke into an apartment in Novo Sarajevo and threatened to kill the occupant, a Serb, unless he left the premises immediately.

23. On 3 September 1996, a group of 11 Bosniaks who had been forcibly evicted from their homes in Vrbanja, near Banja Luka in the Republika Srpska, with whom the Special Rapporteur personally met, were evacuated for resettlement abroad. Additional resettlements are expected, since international agencies have been unable to prevail upon local Bosnian Serb authorities to take adequate security measures for the protection of Bosniaks in Vrbanja.

24. The question of property generally is a major area of concern to the Special Rapporteur. Authorities in both entities of Bosnia and Herzegovina apparently continue to authorize the occupation of property without regard to legal ownership, to the situations of the owners, or to the pertinent provisions of the Dayton Agreement, especially annex 7. The Property Commission established by annex 7 has barely begun to have an effect in this sensitive area.

E. Detention issues

25. There are still persons being detained in Bosnia and Herzegovina in violation of their human rights. The Special Rapporteur has expressed concern, for example, over the case of Mr. Zlatko Memovic, who has been held in the prison at Bjeljina, Republika Srpska, since February 1994 although a court upheld the appeal of his conviction. The original conviction has been annulled but no new trial has been scheduled, despite the lengthy time elapsed. An announcement on 15 September 1996 that Mr. Memovic would soon be released in a prisoner exchange had not resulted in any action as of the time of writing of this report. The Special Rapporteur has also received information on the cases of a Bosniak and a Bosnian Croat detained at Bjeljina

because, according to Republika Srpska authorities, they had crossed the IEBL in February 1996 before such movements were permitted under the Dayton Agreement.

F. Silent emergencies

26. In Bosnia and Herzegovina as well as throughout the territory of the former Yugoslavia, the Special Rapporteur has observed the phenomenon of "silent emergencies". These are crises which are not connected exclusively to the war, but have developed from the region's poor economic conditions. Their victims have virtually no voice in the context of the region's many social problems.

27. Near Sarajevo, the Special Rapporteur visited a centre for mentally disabled persons. It was apparently only due to the efforts of the centre's management that any of the centre's residents survived through four years of war; nevertheless, many of them in fact die. The work of the centre is being carried out today through private initiative, but there is a feeling that these people are virtually unknown to the public. The Special Rapporteur emphasizes that every human life is important. Respect for human dignity must be ensured by the authorities, and should be an integral part of the provision of social services.

28. Another silent emergency, especially in Bosnia and Herzegovina, is the fate suffered by victims of rape, of both sexes and including many children. These persons face problems of various kinds, including traumatic memories of the act itself, and the anguish of the decision whether to keep children conceived through rape or to give them up for adoption. In all of these cases, the victims need protection, psychological care and practical guidance. In the interest of justice and truth, cases of rape should be brought to court. The Special Rapporteur is concerned, however, about the position of witnesses who will testify in domestic courts, or before the International Criminal Tribunal for the Former Yugoslavia, about violations of humanitarian law committed in Bosnia and Herzegovina and elsewhere in the former Yugoslavia. She believes that all such witnesses, and notably victims of sexual abuse, should receive adequate assistance and protection. Personal details should be treated with the strictest confidentiality and not disclosed unless absolutely necessary for the conduct of criminal proceedings. Governments should give priority to protecting such witnesses at the request of domestic courts and the Tribunal.

G. Rights of the child

29. In a communication to the Committee on the Rights of the Child, the Special Rapporteur described the importance she attaches to the situation of children in Bosnia and Herzegovina. In every conflict, unfortunately, the children are among the main victims. Many children are left homeless and sometimes orphaned, bereft of any kind of stability in their lives. It is the responsibility of Governments and international organizations to conduct their work in view of the best interests of children, which are so important to lasting peace.

H. Conclusions and recommendations

30. The responsible authorities in Bosnia and Herzegovina clearly have not provided adequate security for the population. The Special Rapporteur notes with concern that several key human rights aspects of the Dayton Agreement have not been respected at all by the parties. In particular, provisions of annex 7 relating to the right of return of refugees and displaced persons have gone largely unimplemented, mostly due to obstructions posed by authorities of the Republika Srpska as well as Bosnian Croat authorities in the Federation of Bosnia and Herzegovina.

31. Freedom of movement in the country has, if anything, deteriorated in recent months. The Special Rapporteur endorses the proposal to implement a system of uniform car registration plates throughout the country as a means of improving this disturbing situation.

32. The authorities throughout Bosnia and Herzegovina must take steps to comply fully with the Dayton Agreement, since genuine peace will remain elusive if the rights contained in the Agreement are not guaranteed. Economic development measures should be undertaken by the international community in full consideration of the parties' implementation of the Dayton Agreement's provisions promoting the tenets of a civil society.

33. The Special Rapporteur would like to emphasize her view that the authorities should provide greater support to the Federation Ombudsmen, as well as to the mechanisms created by the Dayton Agreement which form the Commission on Human Rights, in order to improve the overall human rights situation. The recommendations of these institutions should be given a meaningful response. The Special Rapporteur hopes to strengthen her cooperation with the Federation Ombudsmen in their important work by, among other measures, undertaking joint investigative missions.

34. International efforts under way to provide training to local police forces throughout Bosnia and Herzegovina are a most welcome development. The Special Rapporteur further wishes to underline her strong support for the work conducted so far by the International Police Task Force which has played a positive role in the country. She urges consideration of an expansion of the IPTF mandate which would allow officers directly to intervene in cases of apparent human rights violations.

35. The Special Rapporteur reiterates her call for the apprehension and transfer to the International Criminal Tribunal at The Hague of all indicted war crime suspects. In the event that local authorities continue to prove unable or unwilling to undertake their obligations in this regard, IFOR should itself take appropriate action. The local authorities should take steps to ensure that local war crimes trials are conducted according to internationally recognized standards, and in particular that the right to open and public trials is respected. International monitors should be provided full access to trial proceedings. Another international entity of great importance is the expert on the special process on missing persons of the Commission on Human Rights. All possible support should be given to the expert,

Mr. Manfred Nowak, to assist him in his endeavours to identify the fate of thousands of missing persons, which is one of the country's most urgent humanitarian problems.

36. The Special Rapporteur has identified education in human rights as a crucial need in all parts of the former Yugoslavia. Younger generations must develop a different approach to human values than those the world has witnessed in the former Yugoslavia during the last five years. There is, therefore, great urgency in including human rights education (i.e. an appreciation for tolerance and a multicultural society) in the curricula of all schools, not only on a voluntary basis but as an important obligation of the different countries' educational systems.

37. The Special Rapporteur especially wishes to draw attention to the "silent emergencies" of Bosnia and Herzegovina, and indeed of the whole of the former Yugoslavia. Amidst all the political commotion of the region there are people suffering quietly but profoundly, people whose human rights deserve attention as much as those of anyone else. The Special Rapporteur has especially in mind some of the people she recently met in Bosnia and Herzegovina, including mentally disabled people in an institution near Sarajevo and the people who have cared for them through the war, and the victims of rape and their families.

II. REPUBLIC OF CROATIA

38. Since the issuance of her last report in March 1996, the Special Rapporteur has visited the Republic of Croatia on three occasions and met with high-level government officials as well as representatives of international and local organizations. She also has received numerous testimonies from individuals during her field missions in the country and visited various locations including refugee centres, churches and a children's hospital. She is assisted in the exercise of her mandate in Croatia by the staff of the Zagreb field office of the High Commissioner for Human Rights. The Special Rapporteur wishes to reiterate her appreciation for the continuing cooperation she has received from the Government of the Republic of Croatia in the implementation of her mandate.

39. The Special Rapporteur has noted several positive developments which have taken place in Croatia since March 1996, many in areas in which she had made specific recommendations. They include the closure of the Kupljensko refugee camp in August 1996 and the resettlement of some of its inhabitants in Croatia and in third countries, while others returned voluntarily to Bosnia and Herzegovina; the signing of the Agreement on Normalization of Relations between the Republic of Croatia and the Federal Republic of Yugoslavia, signed at Belgrade on 23 August 1996, which contains important human rights commitments; and the adoption of a new Law on Amnesty on 25 September 1996. The Special Rapporteur has also been encouraged by some positive measures taken with respect to the peaceful reintegration of the region of Eastern Slavonia into Croatia, and the provision of humanitarian assistance to vulnerable populations in the country.

40. The present report considers the above issues and other matters of general human rights concern. It has taken into consideration information

provided to the Special Rapporteur by the Government of Croatia in an aide mémoire dated 12 October 1996. The Special Rapporteur considers at greater length the question of minority rights in Croatia, as well as in the Federal Republic of Yugoslavia, in a special report on minorities (E/CN.4/1997/8) being issued together with the present report.

A. Personal security in the former sectors

41. Although violations of personal security have been significantly reduced in the former Sectors North and South, the Special Rapporteur has noted several disturbing reports received in recent months of attacks against the local Serb population. One of the most serious cases involves the killing of a couple of mixed nationality, a Serb and a Croat, in the village of Bukovica (former Sector North) on 11 September 1996, and the destruction of their house by arson. Looting continues to be a problem. On 2 September, a Serb woman was assaulted by three men in Marici (former Sector South). When she attempted to prevent the men from stealing roof tiles from her home, she was pelted with stones and then terrorized by pistol fire as she ran away. On the night of 17 October 1996, the office of the non-governmental human rights organization Homo in Vrhovine, former Sector North, was broken into by an unidentified man who assaulted and badly beat two persons spending the night there. Though the police were contacted and the man arrested, he was released the next morning and returned to the office where he again threatened the occupants.

42. The Special Rapporteur is also concerned by reports of acts of vandalism which have targeted Serb cultural and historic sites. For example, on 23 August 1996, a Serbian Orthodox church was damaged by an explosive device in Karin (former Sector South), and on 5 September, a bomb was activated by unknown persons in front of the Serbian Orthodox church in Dubrovnik. On 17 September, a Second World War monument in Knin was devastated by a strong explosion. Police investigations are reportedly ongoing in these cases.

43. In her letter to the Chairman of the Commission on Human Rights dated 22 August 1996 the Special Rapporteur relayed her impressions from her mission to former Sectors North and South earlier that month. The letter underlined the Special Rapporteur's view that, one year after Operation Storm, the Croatian authorities were still not providing adequate security to the residents of former Sectors North and South. She continued, "[T]he continuing state of insecurity in former sectors North and South so long after last summer's military operations leads me to conclude that there apparently is an unwillingness on the part of the Croatian authorities to take strong preventive measures to ensure the safety of local residents."

44. The Croatian Minister of Foreign Affairs responded to the Special Rapporteur's comments regarding violent incidents in a letter addressed to the Chairman of the Commission on Human Rights in September 1996. The Minister wrote in part:

> "In order to ensure law and order in the liberated territories, the Croatian Government has to date undertaken significant measures towards providing security to the population living in

these areas, including the deployment of additional police forces. These measures cannot be put into question despite the few regrettable incidents referred to in the Special Rapporteur's letter."

B. Humanitarian and social issues

45. The Special Rapporteur welcomes the measures which have been taken by the Croatian Government, in cooperation with local and international relief agencies, to alleviate the suffering of vulnerable members of the population, particularly in the former Sectors. The Government's project "Let's Save Lives", initiated in 1995, is taking a number of approaches towards meeting its humanitarian goals. These include: providing individual care; surveying the size and needs of the vulnerable population; working to ensure the delivery of necessary documents; coordinating the establishment of a number of specific care facilities. The Government has indicated that it intends to broaden its humanitarian activities during the coming winter. Cooperative projects have been undertaken with numerous international organizations, including the International Federation of Red Cross and Red Crescent Societies, and Equilibre.

46. The Government has noted that its efforts in this area are complicated by the fact that vital statistics and other records have been burnt or otherwise destroyed in the communities in the former Sectors, and that residents are sometimes unable, owing to their advanced age and other factors, to provide necessary information. It further notes that it is confronted with the demanding task of adopting new legislation and institutional arrangements to handle its responsibilities in the areas of employment, social welfare, pension benefits and other matters. The Government advises the Special Rapporteur that laws have been passed affecting employment and worker safety issues, and that others are due to be proposed in the areas of pension, insurance and social welfare, among others.

47. With respect to the Special Rapporteur's previous recommendation that development of local human rights organizations in Croatia, particularly groups concerned with women's and children's issues, should be encouraged, the Government has reported that some 333 intergovernmental and non-governmental organizations are active in the country, some dealing with the above-mentioned matters. The Government further advises that it has established a Committee for Equality and a National Committee for a Plan of Action for Children's Rights, while a national seminar on mechanisms for equality was conducted with the support of the Council of Europe.

48. The Special Rapporteur remains concerned about apparent discrimination in the Government's policy on reconstruction and rehabilitation. Reliable reports continue to indicate a lack of electricity and public services in communities including Dabar, Doljani, Podum, Salamunic, Grabusic, Zaluznica and Glavace in former Sector South, while in other locations services have been provided to ethnic Croat refugees who have been resettled from Kosovo and central Bosnia.

49. Positive developments in the field of employment were recently registered in Ogulin, former Sector North, when international monitors

observed that the local municipality offered a plan for recruitment of 200 residents, among them 30 Serbs, for employment with a railway enterprise.

C. The return of Croatian Serb refugees

50. According to the Croatian Office for Displaced Persons and Refugees (ODPR), some 12,000 Croatian Serb refugees have received permission to return to the country as of 12 October 1996, mostly on the basis of family reunification or proof of citizenship. Of this number, very few have returned to their original place of residence in the former sectors. The authorities have emphasized to the Special Rapporteur that the number of authorized returns of Serbs to Croatia, which has steadily increased during the past year, should be considered in the light of the fact that, to date, no Croatian displaced persons have been able to return to Eastern Slavonia, the formerly Serb-controlled area of Croatia. According to ODPR figures, in August 1996 Croatia had on its territory 167,609 displaced persons and 184,545 refugees whose human right to a home, the Special Rapporteur affirms, requires urgent attention.

51. The head of ODPR has advised the Zagreb office of the High Commissioner for Human Rights that emphasis in the immediate future will be placed on applications for return from relatives of elderly Serbs remaining in the former sectors, who require the assistance of younger family members to lead a normal life. Indeed, fewer than a quarter of the Croatian Serbs who have returned to Croatia so far have re-established residence in the former sectors. A survey is under way which is intended to identify relatives of the most vulnerable persons. Meanwhile, the resettlement of ethnic Croat displaced persons and refugees continues and as of August 1996, some 56,525 such persons had been provided accommodation in the formerly Serb-controlled sectors.

52. The issue of property of Croatian Serb refugees from the former sectors considered to be abandoned continues to be a cause for concern. Although commissions have been established at the local and municipal levels, the record so far reveals that they have been inefficient in resolving requests submitted, mostly by Serbs, for the recovery of property. For example, information has been received about 18 families from Plaski (former Sector South) who have requested, to no avail, the return of their flats, which have been temporarily given over to Bosnian Croat refugees from Banja Luka, Bosnia and Herzegovina. The Special Rapporteur has learned of similar cases in which the ommissions have been unable to effect the return of temporarily occupied properties, although the owners have duly submitted their requests.

53. On the question of return, the Special Rapporteur acknowledges the important recent Agreement on Normalization between the Republic of Croatia and the Federal Republic of Yugoslavia and the Republic of Croatia, signed on 23 August 1996, by which full diplomatic relations were established between the two countries. She notes that the Croatian authorities have emphasized the positive effect that such an agreement could have for the large-scale return of Croatian Serb refugees to their homes, and hopes that imminent developments will prove the Government's forecast correct.

D. The question of amnesty

54. The new Law on Amnesty, passed by the Parliament on 25 September 1996, has been hailed by most observers as a significant step towards both the return of Croatian Serb refugees and the peaceful reintegration of the region of Eastern Slavonia into the rest of the country. However, the Special Rapporteur's attention has been drawn to the need to scrutinize the Law's application in practice.

55. The Law, which became effective on 3 October 1996, applies to criminal acts referred to in Croatian legislation as "participation in armed rebellion", and specifically excludes war crimes. The Law stipulates that all current investigations and trials shall be stopped, all completed trials annulled and all prisoners sentenced for "armed rebellion" released.

56. Some 100 prisoners reportedly were released between 5 and 7 October 1996 from various detention centres in Croatia. The Special Rapporteur has received reliable information, however, that at least seven of these persons were rearrested only a few days after their release in connection with an investigation of alleged involvement in war crimes by the Karlovac Public Prosecutor's Office, although they had not previously been charged with war crimes. The remainder of those released reportedly were to be transported at their request to the FRY for resettlement.

57. The rearrest of several Croatian Serbs is of great concern to the Special Rapporteur, and she will seek to monitor this situation closely. The potential benefit of the new amnesty legislation in raising the confidence of Croatia's Serb population and encouraging returns will be substantially damaged if persons still find themselves the subject of criminal proceedings.

E. The practice of illegal and forcible evictions

58. The Zagreb Office of the High Commissioner for Human Rights continues to receive complaints relating to the forcible and unlawful eviction of persons from State-owned apartments in Croatia. Such evictions have recently been committed by uniformed members of the Croatian Army, for example, on 17 June 1996, when A.G., an ethnic Croat from Split, was evicted by a group of three identified soldiers. The incident sparked a public protest by human rights activists in Zagreb.

59. According to the Croatian Helsinki Committee, in a statement released on 3 October 1996, more than 100 houses were forcibly entered and illegally occupied by a group of soldiers from the Croatian Army, as well as some members of the Croatian War Veterans' Association, in Milna on the island of Brac between 15 August 1996 and the end of September. The perpetrators frequently identified houses and marked them with signs before illegally moving into them.

F. The situation of the media

60. The questions of freedom of expression, and abuse of this freedom, in Croatia continue to be among the Special Rapporteur's major concerns. The draft Public Information Law of the Republic of Croatia was criticized

by experts of the Council of Europe following a visit to Croatia in June 1996 because it did not meet European standards for freedom of expression. After the law was amended, it was adopted by the Croatian Parliament on 2 October 1996. State-owned electronic media remain under the close control of the ruling Croatian Democratic Union (HDZ) party and have frequently denied time to alternative points of view. For example, recent HDZ rallies during the Bosnian elections of September 1996 received extensive and exclusive coverage from State television in Croatia. The authorities have further blocked access to stable frequencies by independent radio outlets, including Radio 101, which has been broadcasting for several years. The transmitters of "Radio Northwest", which had been broadcasting for two years, were seized by the Government on 6 September 1996 despite their request for the allotment of a frequency.

61. In May 1996 the independent daily Novi List of Rijeka was assessed a large tax levy which caused serious concern for the paper's survival. However, court proceedings are still pending in the matter.

62. The Special Rapporteur has noted the judicial decision of 25 September 1996, by which the editor-in-chief and a reporter of the well-known satirical newspaper Feral Tribune were acquitted of charges of slandering the President of the Republic. The case arose from an article published on 29 April 1996 under the title "Bones in a blender", accompanied by a photomontage of the President and a Croatian personality associated with the pro-Nazi regime during the Second World War, which questioned an initiative to honour Croat victims, some of them alleged Nazi collaborators, of mass killings in the 1940s along with earlier victims of mass executions perpetrated by pro-Nazi fascists in power in Croatia at the time. The proposal for indictment by the State Prosecutor had been approved with the written consent of the President of the Republic. The court ruled that the article was an expression of opinion and therefore was protected.

63. The Special Rapporteur wishes to reiterate her concern about the continuing publication of materials advocating nationality based hatred which contravene article 39 of the Croatian Constitution. For example, material appearing in the magazine Nezavisna Drzava Hrvatska raises serious questions. In the summer of 1996, the weekly Panorama, in an interview with the leader of a political party called, Nova Hrvatska Desnica, (New Croatian Rights), published a list of 100 persons proposed for execution, among them prominent independent intellectuals, journalists, and human rights activists.

G. Measures for the protection of human rights

64. In recent months the Government of Croatia has undertaken several measures to promote human rights on its territory, including some taken in coordination with the Council of Europe. Croatia's admission into the Council has been approved and is scheduled to take place formally on 6 November 1996. By a decision of 7 September 1996, a working group for the examination of the compatibility of Croatian legislation with the European Convention on Human Rights was established. In addition, Croatia has entered into cooperation programmes with the Council in the areas of police activities and the promotion of democracy.

65. Croatia is preparing legislation on education in the languages of national and ethnic minorities, and has helped to develop and recently approved educational programmes for Croatian Serb children. National committees have been established for human rights education (6 July 1996), equality (19 July 1996) and human rights generally (26 September 1996). The Office of the Ombudsman will reportedly be expanded with the appointment of 20 supporting regional officers which, it is hoped, will increase the institution's effectiveness. In addition, the Government has welcomed a mission of the Office of the High Commissioner for Human Rights, scheduled for October 1996, to propose technical assistance in the field of human rights.

H. Conclusions and recommendations

66. The human rights situation of the Serb population, particularly those living in the former sectors, remains a serious cause for concern. A decrease in the number of incidents of physical assault, looting and harassment has been recorded, but they continue to occur none the less. The Special Rapporteur reiterates that additional reinforcement of the professional police presence in the area could alleviate difficulties and provide greater security for the remaining population.

67. Although the human rights situation in former Sector North is better in comparison to former Sector South, the lack of a transparent policy for the reconstruction of destroyed houses, the discrepancy between different areas concerning the restoration of public services in general, as well as the inadequate resolution of important matters, particularly regarding properties considered as abandoned, remain disturbing.

68. Regarding another most compelling human rights issue, i.e. freedom of the media notwithstanding the adoption of recent legislation, the Special Rapporteur is in possession of reliable reports that hate speeches are continuing. Effective measures to combat incitement to hatred should be undertaken, particularly in the fields of education and the media.

69. Despite the encouraging signs of various governmental decisions strengthening the promotion and protection of human rights, serious concerns remain with regard to the implementation of those provisions so as to foster a general atmosphere of confidence among various ethnic groups. The return of both refugees and displaced persons should be dealt with as a matter of the utmost priority with due respect for individual rights and freedoms.

70. The Special Rapporteur acknowledges the significant political agreement on normalization reached by Croatia and the Federal Republic of Yugoslavia, and she also welcomes the recent Law on Amnesty adopted pursuant to it. However, concerns about the application of the amnesty law have been raised in view of several rearrests of Croatian Serb detainees only days after their releases under the terms of the amnesty.

71. The Special Rapporteur is particularly aware of various initiatives being undertaken, both by the Republic of Croatia and the Federal Republic of Yugoslavia, to resolve the fate of missing and disappeared persons. Although little hope has been given to the families concerning their loved ones, the Special Rapporteur is of the opinion that the problem of missing persons

should be dealt with as a matter of the highest priority, so as to avoid any impediment to the future coexistence of the different ethnic communities.

72. The Special Rapporteur has full confidence in the activities undertaken by local human rights organizations to promote human rights and fundamental freedoms, for which they deserve strong assistance. Therefore, the implementation of various projects aimed at strengthening the development of the social sphere should be encouraged by the Croatian authorities as well as by the international community.

III. THE REGION OF EASTERN SLAVONIA, BARANJA AND WESTERN SIRMIUM

73. On 12 November 1995, the Republic of Croatia and the de facto Serb authorities in the Eastern Slavonia region of Croatia signed the Basic Agreement on the Region of Eastern Slavonia, Baranja and Western Sirmium, providing for the peaceful reintegration of the region into Croatia within a one- to two-year period. The United Nations Security Council was requested to establish a transitional administration to govern and to maintain peace and security in the region during the transitional period. On 15 January 1996, the Security Council adopted resolution 1037 (1996) emphasizing that the territories of Eastern Slavonia, Baranja and Western Sirmium were an integral part of the Republic of Croatia and stressing the importance of full respect for human rights and fundamental freedoms of all in those territories. The Council decided to establish, for an initial period of 12 months, a peace-keeping operation with both military and civilian components under the name United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES).

74. The parties to the Basic Agreement agreed to the demilitarization of the region and to the Transitional Administration's facilitation of the return of refugees and displaced persons under secure conditions. The agreement provided for restitution or just compensation in cases in which property was unlawfully taken from such persons. UNTAES was requested to restore the normal functioning of public services in the region without delay, to establish and train a temporary police force, and to build confidence among all national and ethnic communities. Not later than 30 days before the end of the transitional period, elections for local government bodies were to be organized by UNTAES.

75. Based on the recommendation of the Special Rapporteur and following the agreement of the Croatian authorities, the High Commissioner for Human Rights opened a field office in Eastern Slavonia on 1 February 1996. The following discussion is based on information gathered by the Vukovar field office, as well as on information received during two recent visits of the Special Rapporteur to Eastern Slavonia, the latest in October 1996.

A. Security of the person

76. Personal security in Eastern Slavonia has improved dramatically since the last report of the Special Rapporteur. Residents are slowly regaining confidence and streets are becoming more crowded, even in the evenings. A

determining factor in this development was the demilitarization process, completed in June 1996. However, there is strong evidence indicating that many households still possess small weapons. There have been several reports of suicides committed with hand grenades. Particularly alarming was the case of a killing committed by a 15-year-old boy who shot a fellow student dead in front of a school in Borovo in early October 1996. It is to be hoped that the weapons buy-back programme, launched by UNTAES on 2 October 1996, will limit the firearms and explosives still in the possession of private people to those which are duly registered.

77. Following demilitarization of Eastern Slavonia, the role of ensuring law and order was assumed by a local Transitional Police Force (TPF) of mixed nationality. The TPF is supervised by United Nations Civilian Police (CIVPOL) whose mandate is to give guidance to the TPF in putting an end to human rights violations. The arrangement for the most part seems to be successful. However, occasional reports of persons suffering ill-treatment after arrest by the TPF suggests that CIVPOL may need to take a more active approach.

B. Displaced persons and the question of property

78. The plight of displaced persons, Serbs and Croats alike, is one of the most pressing problems in Eastern Slavonia. Five years after its destruction Vukovar, as well as many other communities, still lie in ruins, and though reconstruction work has now begun, there is a great deal of progress yet to be made. Housing is therefore a critical problem, and accommodating the large influx of displaced persons who will probably return following Croatia's resumption of authority over the area will be a daunting task.

79. Indeed, most of the complaints now being received in the region are connected to property disputes, and often to cases of forced co-locations or evictions. It appears that avenues of legal redress are limited, particularly since much of the population regards the region's administrative and judicial institutions with suspicion and even fear. The prolonged climate of violence has made many people unwilling to expose themselves to any form of public scrutiny. Praiseworthy attempts to resolve this problem, for example through the establishment of so-called housing committees, have so far met with only limited success.

80. Of concern are recent declarations made by some Croatian politicians that Croatian Serb displaced persons will not be allowed to stay in the region of Eastern Slavonia and will instead have to move back to their places of origin. Croatia should seek to address this problem in a comprehensive way throughout its territory. It is worth recalling that, under international norms, e.g., the International Covenant on Civil and Political Rights (art. 12),* persons lawfully within a State's territory have within that territory the right to freedom of movement and choice of residence.

---

* Article 2 of the Fourth Protocol to the European Convention on Human Rights, although not at present binding on Croatia, is also instructive.

C. Right to a nationality

81. The disintegration of the former Yugoslavia and the transition resulting in the establishment of new States has presented many delicate legal issues, some of which have yet to be resolved. Such is the case with the question of the nationality of persons residing in Eastern Slavonia, Baranja and Western Sirmium. The area's isolation over the past five years has prevented its inhabitants from regularizing their status within the Republic of Croatia and as reintegration approaches, the need for people to obtain recognition of their citizenship is urgent.

82. Commencing in August 1996, documentation centres were opened by the Government of Croatia in cooperation with UNTAES in various towns in Eastern Slavonia. The centres, staffed by Croatian officials, process applications for certificates of citizenship, known as domovnica, identity cards, passports and other documents. The large number of applications already received by these centres suggests that a large part of the local population no longer questions the imminence of reintegration. Nor does this encouraging trend seem to be affected by propaganda issuing from certain radical elements calling for people not to participate. Mainly owing to technical problems and the time needed to process applications, the number of requests so far have not been matched by the number of documents issued, although the Government appears to be making reasonable efforts in this regard. Attentive monitoring by local and international observers will be needed to support this process and help resolve controversies that may arise.

D. Missing persons

83. The resolution of the fate of missing persons remains one of the most pressing human rights concerns in Eastern Slavonia. The Special Rapporteur met with mothers who are still wondering about the fate of their "disappeared" children. She learned about the appalling phenomenon of women being blackmailed in exchange for questionable information concerning the whereabouts of their loved ones.

84. With the excavation of the Ovcara gravesite, reportedly containing Croat victims of mass killings committed at Vukovar in 1991, the important work of identification of war victims in the region has begun. It is believed that in this area there are some 40 mass graves where many of the unaccounted for may be buried. For the peace of mind of many families in Croatia and elsewhere, it is hoped that proper identification work can be carried out.

E. Elections

85. According to the Basic Agreement of November 1995, elections for all local government bodies shall be held not later than 30 days before the end of the transition period. Since they are linked to the end of the mandate of UNTAES, elections have become the subject of a controversy over precisely when they should be held. Some sectors of Croatian public opinion reportedly favour holding elections on 15 December 1996, irrespective of whether the mandate will be renewed. However, UNTAES officials have taken a different stand and announced publicly that the elections will take place in the spring of 1997. It appears certain that controversies will arise concerning exercise

of the right to vote. Croatian officials have already caused some debate with their declaration that only residents appearing in the 1991 census will be allowed to participate in the elections. Opponents argue that this would deprive many persons, possibly even a majority of those now living in the region, of their right to vote. For these reasons, the Special Rapporteur strongly recommends that the mandate of UNTAES be extended.

F. Joint Implementation Committees

86. The executive power for the region of Eastern Slavonia rests with the UNTAES Transitional Administrator, Mr. Jacques Klein. To carry out his mandate, the Administrator has established Joint Implementation Committees (JICs) in which issues are discussed and recommendations made by representatives of the Croatian and Serbian communities under the chairmanship of UNTAES senior officers. JICs also include representatives from different international agencies.

87. To date JICs have been established in the following areas: police, civil administration, restoration of public services, the return of refugees and displaced persons, human rights, elections and records. The human rights JIC has been active for over six months. In its discussions the parties formulated recommendations to the Croatian Government on the amnesty law, and also agreed to establish a sub-committee on human rights training that has laid out a comprehensive programme of seminars for different sectors of society. The first such event took place in July 1996.

88. The JIC is currently considering proposals for international human rights monitoring missions in the region of Eastern Slavonia. Proposals are being reviewed which would bring together international governmental organizations active in the region in an informal body to harmonize and coordinate monitoring activities in order to ensure that resources are used efficiently. Reactions have so far been positive and it is hoped that a monitoring mission will be organized in the near future.

G. Conclusions and recommendations

89. The situation in the region of Eastern Slavonia, Baranja and Western Sirmium in Croatia has improved dramatically over that which prevailed during the war years. UNTAES has successfully handled many aspects of the area's physical and social rehabilitation, and measures recently taken by the Government of Croatia, including the law on general amnesty, offer other reasons for optimism. Croatia's approach to granting recognition of citizenship and facilitating access to social benefits appears to have been positive so far, although some problems have been noted and many people's cases still require action.

90. Humanitarian organizations, both intergovernmental and non-governmental, have also contributed to the improvement of the situation and have helped to safeguard the population's health and well-being. The survival of some people through the next winter may still depend on this assistance.

91. Property disputes promise to be a continuing problem during the reintegration process. As noted earlier, property concerns in Croatia go well

beyond the domain of Eastern Slavonia. Many persons have fled from their villages throughout Croatia leaving their property and belongings behind unattended, and in some cases these properties have been occupied by other displaced families in need of refuge. The Croatian Government has advised the Special Rapporteur that there are at present some 167,609 displaced persons living on its territory. The problems of property and resettlement will be among the major challenges to peaceful reintegration in Croatia and will require good will and understanding from both sides to be acceptably resolved.

92. The region of Eastern Slavonia holds promise of becoming an area of the former Yugoslavia where a multi-ethnic society is successfully restored. There is, however, a risk that mistrust, and the profound hatred that is of such concern to the Special Rapporteur may be too strong to allow a smooth reintegration. The prospect of a new mass exodus still haunts the region. Although projections are cautiously optimistic, no one can rule out the possibility of a large part of the present population seeking to flee the area. All due measures must be taken to ensure that this does not happen. The Special Rapporteur believes that an extension of the mandate of UNTAES would be a confidence-building measure towards this end.

93. A satisfactory conclusion to the region's transition can only come with wise and constructive leadership on all sides. Respect for human rights will be one of the main building blocks for peaceful reconciliation. Especially in the immediate post-UNTAES period, there will be a tremendous need of confidence-building. The Croatian Government should therefore consider allowing international human rights monitors to stay in the region temporarily to assist in building positive relations between the population and the authorities.

IV. FEDERAL REPUBLIC OF YUGOSLAVIA

94. Following the signing of the Dayton Agreement in November 1995, the Federal Republic of Yugoslavia (FRY) has taken significant steps to improve its relations with the international community, including with the other countries of the former Yugoslavia. Full diplomatic relations were established in August and October 1996 with Croatia and Bosnia and Herzegovina respectively. The Agreement on Normalization between the Republic of Croatia and the Federal Republic of Yugoslavia signed on 23 August 1996 provides for a peaceful resolution of disputes and a commitment to refrain from threats or the use of force. Human rights provisions oblige the countries to resolve the issue of missing persons without delay and to create the conditions for a free and safe return of refugees and displaced persons to their residence or places they freely choose.

95. On 3 October 1996, the Presidents of Serbia and Bosnia and Herzegovina also agreed to refrain from political and legal acts not conducive to peace and cooperation. The Special Rapporteur welcomes these agreements, although whether their implementation will be successful remains to be seen.

96. Following the 14 September 1996 elections in Bosnia and Herzegovina, the Security Council lifted sanctions imposed on the Federal Republic of Yugoslavia. However, the considerable economic difficulties currently faced

by the country will not be overcome as long as it is unable to rejoin international financial institutions, for which the Security Council resolution did not provide.

97. The Special Rapporteur is grateful for the support she has received from the Government during the five visits she has undertaken to the country since submitting her last report. In addition to meeting high-level government officials in Belgrade, the Special Rapporteur was able to obtain first-hand information about the human rights situation in Kosovo, Sandzak, Vojvodina and the Republic of Montenegro. She has received support in the exercise of her mandate from the staff of the Belgrade office of the High Commissioner for Human Rights, which was opened in March 1996. The office staff have been able to travel freely throughout the country.

98. The International Criminal Tribunal for the former Yugoslavia opened an office in Belgrade in August 1996. However, the OSCE continues to be barred from monitoring the situation of human rights in the FRY, notably in Kosovo, an area from which numerous human rights violations continue to be reported. In view of recent political developments, the Special Rapporteur believes that the moment has come to strengthen human rights protection mechanisms. The discussion below addresses a number of structural and legislative measures she believes should be taken. Furthermore, the report should be read with the Special Rapporteur's special report on the situation of minorities in the former Yugoslavia, focusing on the situations in Kosovo, Sandzak and Vojvodina.

A. Legal guarantees for the protection of human rights

99. The FRY is party to all major international human rights instruments, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment. However, the Government has only signed but not ratified the Optional Protocol to the International Covenant on Civil and Political Rights, giving individuals the right to appeal to the Human Rights Committee about alleged infringements of the Covenant. When the Special Rapporteur met the federal minister in charge of human rights and the Serbian minister of the interior in October 1996, she urged the FRY to consider becoming a party to the Optional Protocol.

100. The 1992 Constitution of the FRY, the 1990 Constitution of Serbia and the 1992 Constitution of Montenegro contain important human rights provisions, many of which meet the international human rights standards to which the FRY is a party. However, because the three constitutions were adopted at different times, there is considerable discrepancy in the human rights provisions of each of them. Moreover, victims of human rights violations are prevented access to some key provisions of constitutionally protected human rights. The Government has not yet completed the process of reviewing current criminal and procedural laws to ensure their compliance with the standards in the FRY Constitution and with international human rights standards.

B. Security of the person

101. The Federal Constitution provides important safeguards to persons in detention. Persons suspected of criminal offences may only be detained by order of a competent court when necessary for the conduct of criminal proceedings (art. 24). However, these standards do not apply in practice: the Code of Criminal Procedure (at art. 196) permits persons suspected of criminal offences to be detained for up to 72 hours, without an order from a judge and without access to a lawyer, although the Public Prosecutor has to be informed forthwith of decisions to detain. Appearance before a judge is required after 72 hours to decide on continued detention. Although police appear generally to comply with the provisions of the law, the procedure itself may contravene the constitutional requirement of judicial supervision and fall short of the standard set in article 9 of the International Covenant on Civil and Political Rights, which requires arrested persons to be brought before a judge "promptly".

102. The Special Rapporteur believes that appropriate changes in the Code of Criminal Procedure should be considered which would ensure that the standards laid down by the Federal Constitution and international law are met. Current provisions favour the likelihood of arbitrary arrests. Moreover, torture and ill-treatment often occur when persons are detained in police custody without judicial supervision and without access to a lawyer. The Special Rapporteur continues to receive reports from the FRY of ill-treatment and torture by police during the 72-hour period of preliminary custody.

103. Most such allegations are received from Kosovo. However, the Special Rapporteur has also received reports from criminal lawyers that ill-treatment of suspects in police custody is common throughout the FRY. In March 1996, Mr. Dure Sudija was reported to have jumped out of a window of a police station in Novi Sad. He was taken to hospital and died two weeks later. There were indications that he had been beaten in custody. Conviction of those responsible for ill-treatment or torture is rare; although the law enables victims of such practices to institute criminal complaints, non-governmental organizations report that this is difficult to enforce.

C. The right to life

104. The Federal Constitution proclaims human life to be inviolable and prohibits the death penalty for any criminal offence proscribed by federal legislation (art. 21). Consequently, perpetrators of the most serious crimes defined by Yugoslav law (in chapter XVI of the Federal Penal Code), namely, crimes against humanity and international law, including genocide and war crimes, can never be sentenced to death. However, a person convicted of committing murder can suffer the death penalty: the constitutions of both the Republic of Montenegro (art. 21) and the Republic of Serbia (art. 14) permit capital punishment as an exceptional response for some serious criminal offences. The Special Rapporteur believes that this discrepancy should be resolved and that the higher standard for the protection of the right to life provided for by the Federal Constitution should apply equally in each republic.

D. Freedom of expression and the media

105. The electronic media remain by far the most powerful and influential channel through which the right to freedom of expression can be exercised in the FRY. Outside the main cities, newspapers have only limited circulation largely because of their high price. The pro-Government Politika costs 2 dinars and the independent newspaper Nasa Borba, 3 dinars. Few can afford to buy these publications in an economic climate where the average wage, according to the latest official statistics, is just over 800 dinars per month. Most people therefore rely largely on television to be informed. There is only one television station broadcasting daily news on a country-wide scale: the State-run Radio Television Serbia (RTS). It does so on three channels, with the main news being broadcast on channel 1.

106. With the approach of federal elections scheduled to take place on 3 November 1996, RTS has reportedly devoted most of its political coverage to the Government and its policies. Independent research carried out by the Beta news agency for the week 8 to 14 September 1996 revealed 30 broadcasts on RTS presenting the Government and the ruling party in positive terms, while none gave a negative assessment or opinion. In the main news broadcasts, the activities of the ruling Socialist Party of Serbia (SPS) and its coalition partner, the Yugoslav United Left (JUL), received an average of 43 minutes of coverage, while those of other political parties received 3 minutes.

107. On 31 August 1996, an agreement was reached with several small opposition parties aimed at ensuring equal representation of political parties in the elections. The agreement provided, inter alia, that between 1.5 and 2 minutes were to be allocated at the end of the main television news on RTS to a number of opposition parties, in rotation, to present their programmes. An independent survey has found that all political parties were treated equally in these programmes. However, the parties constituting the opposition coalition Zajedno (Together) refused to sign the agreement, arguing that it was entirely inadequate to present their political programme in a meaningful way.

108. Three other major stations operate from Belgrade: TV Politika, BKTV and TV Studio B. All three stations cover only a limited area, and the only one widely considered to have provided independent news coverage, TV Studio B, lost its independent status in February 1996. The Government has allocated radio frequencies to an increasing number of radio stations throughout the country, including three independent ones, but they also cover only a limited range and generally provide entertainment rather than news. The application of independent Radio 92 for a frequency remains pending, and it continues to operate on a 15-day provisional licence granted in 1989.

109. There are several independent newspapers and periodicals in the FRY. The Special Rapporteur has received no reports of censorship, but independent newspapers have to publish under more difficult conditions than do publications which support the Government. Serbia's only paper plant, Matroz, at Sremska Mitrovica, reportedly allocates newsprint on the basis of a priority list drawn up by the Government, obliging independent newspapers like Nasa Borba to buy paper at a high cost, thus forcing them to increase their purchase price. Beta, a small independent news agency in Belgrade, reportedly

is unable to obtain press releases from official institutions, having been told by a press officer of the Federal Presidency that she "only dealt with the official media".

110. The leader of the opposition Democratic Party, Mr. Zoran Djindjic, was sentenced to four months' imprisonment, suspended for two years, on 20 September 1996 for "insulting the reputation of the Republic of Serbia" and exposing the Prime Minister to "ridicule". Mr. Djindjic had publicly alleged that the Prime Minister had secured substantial gains for himself and the enterprise of which he is co-owner through improper business dealings. He had claimed in his defence that the statement was made as a result of his political activities and that he had "reasonable grounds" to believe that it was true. Although the conviction, under article 98 of Serbia's Penal Code, appears to fall within the terms of FRY law, it demonstrates the dangers for freedom of expression created by a legal provision which is broadly defined and could be used to restrict legitimate criticism of government officials.

111. The Special Rapporteur has also identified some concerns regarding the media situation in Montenegro. It appears that tight control is still maintained on most important media outlets in the republic. Reportedly, the only daily newspaper with national coverage, Pobjeda, mainly carries and supports the views of the ruling Democratic Party of Socialists. The independent press is limited mainly to two weekly news-magazines, Monitor and Onogost Standard, published in Podgorica and Niksic respectively. In addition to three State-controlled national TV and two radio stations there are public radio stations broadcasting in most towns. Private TV and radio stations such as Radio Antena M and TV Elmag in Podgorica operate locally and thus reach only a limited audience. Opposition parties reportedly experience serious difficulties in gaining access to State-controlled media, especially in the periods between elections.

E. The situation of refugees

112. The Office of the United Nations High Commissioner for Refugees (UNHCR), the Commissioner for Refugees in Serbia and the Commissioner for Displaced Persons in Montenegro conducted a census in June 1996 of persons who had fled to the FRY as a result of the war. Preliminary results showed that 646,166 war-affected persons now have asylum in the FRY, 566,275 of whom are recognized as refugees. Of these refugees, 537,937 are in Serbia and 28,338 in Montenegro. Most - 290,667 - came from Croatia, while 232,947 came from Bosnia and Herzegovina (the great majority from the Federation). The majority of refugees (496,386) declared themselves to be Serbs, while the rest said they were either Yugoslavs, Muslims or Croats. Only some 9 per cent of the refugees expressed a wish to be repatriated, and more than half wished to settle in the FRY.

113. The formidable task of supporting such a large number of refugees falls on the Government, as well as on UNHCR, other intergovernmental and non-governmental organizations and on relatives already living in the FRY. The granting of refugee status to persons from the former Yugoslavia is governed both by legislation and policy. UNHCR and non-governmental organizations report that Montenegro has continued to adopt an "open door" policy towards refugees. However, the Republic of Serbia's approach

reportedly has been more restrictive. Exclusion criteria appear to have included national background. The Special Rapporteur was informed that for a period until late 1995, non-Serb asylum-seekers were denied entry into Serbia, and could only enter the country on false documents or with special assistance. Also in apparent contravention of international law, refugee legislation in both Serbia and Montenegro subjects registered refugees to the duty of military service.

114. However, many refugees did not register on arrival. For example, some Serb men who came from Bosnia and Herzegovina failed to register because of their fear of forcible conscription. Other refugees, including many who came from Croatia following that Government's military operations in spring and summer 1995, were not given the possibility to register officially. Thus, they were unable to obtain material assistance and other administrative facilities from the Government. They and other refugees continued to live in uncertainty about their future, pending the adoption of a new law on citizenship.

F. The Law on Citizenship

115. The Special Rapporteur welcomes the promulgation, on 16 July 1996, of the new Yugoslav Law on Citizenship. It will come into force on 1 January 1997. According to the Law, all those who were citizens of the former Socialist Federal Republic of Yugoslavia and of the Republics of Serbia or Montenegro on the date of establishment of the FRY, 27 April 1992, will, regardless of their residence, acquire citizenship by law (art. 46). Those who held the citizenship of another SFRY Republic may, provided they had permanent residence on FRY territory on 27 April 1992 and did not have foreign citizenship (or if they were military personnel) be granted citizenship at the discretion of the Federal Ministry of the Interior.

116. The federal and republican ministries of the interior are jointly authorized to grant citizenship to refugees from the former Yugoslavia currently in the FRY, and applications are to be evaluated "bearing in mind the interests of security, defence and international position of Yugoslavia" (art. 48). This article is of crucial importance to the 340,000 refugees in the FRY who stated they wish to stay in the country. However, the Law's provisions are broadly phrased and give wide discretionary powers to the authorities. All will depend on the manner in which the Law is implemented.

G. The situation of minorities

117. In recent months, the Special Rapporteur has received numerous reports regarding problems of particular importance to minorities living in the Federal Republic of Yugoslavia. She has gathered a great deal of information personally during missions she has undertaken to the provinces of Kosovo and Vojvodina, and the area of Sandzak (the Raska district). She is focusing on these questions in a separate report addressing the situation of minorities generally in the FRY and Croatia. However, the Special Rapporteur wishes here to point out some of her most urgent concerns regarding the situations in Kosovo and Sandzak.

1. Kosovo

118. On 1 September 1996, the President of Serbia, Mr. Slobodan Milosevic, and Dr. Ibrahim Rugova, President of the LDK party, signed an agreement aimed at normalizing the educational situation in Kosovo and bringing ethnic Albanian pupils back to official school facilities. It will be recalled that since 1991, Albanian students have attended classes in so-called "parallel" schools, operating without the approval of Serbian educational authorities. It is estimated that some 300,000 young Albanians currently receive primary and secondary education in these schools. Another 6,000 are enrolled in the "parallel" Albanian university in Pristina. The recent agreement is to be put into practice by a joint commission including representatives of the two parties, and preparations for the commission's establishment are now under way on both sides. It remains to be seen whether there will be progress in the actual implementation of the agreement. The majority of the ethnic Albanian population appears to have accepted the agreement's approach, but time is short and positive results will be needed very soon.

119. The Special Rapporteur continues to receive allegations of serious human rights abuses attributed to the Serbian police authorities in Kosovo. These reports include numerous cases of arbitrary arrests, ill-treatment and torture. She is particularly disturbed by recent reports according to which Albanian teachers have been ill-treated, and in some cases arrested by the police in front of their pupils.

120. Health care in the province is also a great concern of the Special Rapporteur. Much of the local population is distrustful of medical personnel of Serb nationality and has avoided treatment by them, which has placed the health of children at particular risk. A positive step towards resolving this situation was taken with the recent successful polio immunization campaign carried out by the Government in cooperation with the World Health Organization, the United Nations Childrens' Fund and the local NGO Mother Theresa.

121. As elsewhere in the former Yugoslavia, there is in Kosovo the phenomenon of "silent emergencies". For example, in Pristina the Special Rapporteur visited abandoned children who had been simply left in the children's hospital by their mothers, often due to pressures from family. Unfortunately, centres for abandoned children in the area cannot give them the protection and care they deserve.

2. Sandzak

122. The security situation in the Sandzak region appears to have improved significantly in the last year. However, some problems, mainly arising from past abuses, still need to be addressed. In 1992/93, the Muslim population of the Sandzak region suffered repeated bouts of harassment and violent attacks, allegedly perpetrated by Bosnian Serb paramilitary units. It is reported that the Yugoslav Army and police often failed to stop this violence and in some cases even participated in the attacks. As a result of this violence around 4,000 to 5,000 persons were forced to leave their villages in border areas around Sjeverin and Bukovica in 1992/93. Around 500 of these displaced persons now live in the towns of Priboj (Serbia) and Pljevlja (Montenegro),

under very difficult circumstances. Owing to serious security concerns, these people have so far been unable to return to their villages. The Special Rapporteur has been informed that the Government of Montenegro is currently preparing a return programme for the 46 villagers in Pljevlja. The displaced in Priboj have repeatedly asked for security guarantees from the Serbian authorities, in order to visit their homes in the Sjeverin area, but these requests have apparently received no response.

123. In 1992/93, a series of abductions of Sandzak Muslims were carried out in locations close to Priboj. On 22 October 1992, 17 persons from the village of Sjeverin were taken from a bus at Mioce on the short stretch of the road leading through the Republika Srpska. Another 11 persons were abducted in Bukovica on 15 February 1993. On 27 February 1993, 17 persons were removed from a train at the railway station in Strpci. According to the Government, Bosnian Serb paramilitaries are responsible for most of these disappearances. The official investigations of these incidents have been without result, and no reports on these inquiries have been published.

124. Following her mission to Sandzak in May 1996 the Special Rapporteur wrote to the Minister of the Interior of Serbia, requesting information on the current state of investigations into the abductions. On 24 June 1996 the Secretary of the Commission for Humanitarian Questions and Missing Persons of the Federal Government, Mr. Maksim Korac, replied to her letter claiming that the Commission had no knowledge of those incidents. A subsequent letter to the Special Rapporteur from the Minister of Justice in July 1996 stated that the Federal Republic of Yugoslavia had no authority to investigate the incident since it had evidently happened on the territory of the Republika Srpska, in Bosnia and Herzegovina. The Special Rapporteur has raised this question with President Milosevic who promised to take care of the problem personally. As one possible solution the Special Rapporteur proposed that an international commission of experts be established to assist the Yugoslav authorities.

H. Non-governmental organizations and avenues for redress

125. The Special Rapporteur appreciates the assistance she has received from a number of non-governmental organizations throughout the FRY, including in Kosovo, Sandzak and Vojvodina. Belgrade-based organizations continue to produce carefully documented and authoritative reports about violations of human rights. Increasingly, they also provide human rights training and some legal advice to those seeking enforcement of their civil and political, social and economic rights. Lawyers associated with these NGOs advise refugees about their status and help relatives of the "disappeared" as well as members of minority groups and trade unions. Generally, non-governmental organizations are free to operate, although it occasionally happens that persons employed by these organizations are called to the police for so-called "informative talks", a practice for which there appears to be no legal basis. One organization reported that the Government had begun to respond to a few individual cases, but all organizations complain that the detailed reports they produce and send with specific recommendations to numerous government officials almost invariably go unanswered. At most they receive an acknowledgement, but virtually never a substantive reply.

126. The Special Rapporteur believes that these problems are all the more significant because of the lack of independent official mechanisms to deal promptly and effectively with complaints of infringements of human rights without the need for recourse to the courts. The Special Rapporteur believes the establishment of an ombudsman-type institution in the FRY could considerably enhance the protection of human rights.

I. Conclusions and recommendations

127. Whereas the human rights situation in the Federal Republic of Yugoslavia has improved in several areas, the Special Rapporteur is disturbed that reports of serious human rights violations persist. The important steps which have now been taken to re-establish peace and security in the former Yugoslavia will not be successful as long as human rights are not effectively guaranteed.

128. The Government should strengthen legal guarantees for human rights protection, including by considering ratification of the Optional Protocol to the International Covenant on Civil and Political Rights.

129. The Government should create an effective independent mechanism, such as a competent ombudsman of high moral standing, to deal speedily and impartially with complaints of human rights violations.

130. The Government should complete, as soon as possible, the process of legal review to ensure that all of its laws comply with the human rights standards set out in the FRY Constitution. The Special Rapporteur believes that the current lack of consistency and resulting legal uncertainty should be resolved to prevent arbitrary decisions and to ensure that laws fully comply with constitutional and international standards.

131. In particular, provisions permitting suspects to be held for 72 hours in police custody without judicial supervision should be brought into line with the narrower limits set in international standards, notably the International Covenant on Civil and Political Rights. Provisions in the Penal Code of Serbia penalizing "public exposure to ridicule" should be reviewed to ensure that they fully comply with the right to freedom of expression guaranteed in that Covenant.

132. In the run-up to the November 1996 elections, the Government should provide conditions of genuine freedom and fairness. In particular, it should ensure that State-controlled electronic media provide balanced and equal coverage both to the ruling party and to the opposition coalition.

133. The Convention relating to the Status of Refugees requires the FRY to facilitate, as far as possible, the assimilation and naturalization of refugees. Considering the uncertainty and vulnerability faced by refugees awaiting regularization of their status, the Special Rapporteur recommends the early and effective implementation of the Yugoslav Law on Citizenship. She urges the ministries of the interior to exercise the broad discretion provided for by the Law as liberally as possible in respect of all citizens of the former Yugoslavia, notably refugees who are now in the FRY and who wish to obtain FRY citizenship.

134. The Government should take effective steps to halt police abuses in Kosovo, which reportedly remain widespread.

135. The Government should permit international and regional human rights monitoring organizations to establish a presence in Kosovo, a location of particular concern to the Special Rapporteur.

136. The lack of progress in the investigations of the 1992/93 abductions in Sandzak is a matter of serious concern. The governments of Serbia and Montenegro should renew their efforts to clarify the fate and whereabouts of these persons, publish the reports of the investigations conducted and bring those responsible to justice.

137. The Special Rapporteur welcomes the efforts of the Government of Montenegro to facilitate the return of the displaced from Bukovica. The Government of Serbia should provide adequate assistance to the displaced families in Priboj and enable them to return to their homes.

V. GENERAL CONCLUSIONS AND RECOMMENDATIONS

138. The human rights situations in the countries covered by the Special Rapporteur's mandate are very closely interconnected. For example, the policies of Croatia and the Federal Republic of Yugoslavia are of fundamental importance to developments in Bosnia and Herzegovina, a fact which was expressly recognized by the Dayton Agreement. The Special Rapporteur believes that consideration of the human rights situation in the territory of her mandate continues to require a broad approach encompassing all of the countries discussed in the present report, since none pursues its policies in isolation from the others.

139. As noted earlier, a crucial need identified by the Special Rapporteur in all parts of the former Yugoslavia is education in human rights. Younger generations must develop an approach to human values different from the one the world has witnessed in the former Yugoslavia during the last five years. It is, therefore, a matter of great urgency that human rights education be included in the curricula of all schools, not as an optional subject but as a mandatory obligation of the educational system of each country.

140. The Special Rapporteur attaches great importance to questions relating to the rights of the child. She believes that it is the responsibility of Governments and international organizations to conduct their work in view of the best interests of children, which are so important to lasting peace.

141. On the important issue of press freedom, the Special Rapporteur has been encouraged by round-table discussions she recently held in Bosnia and Herzegovina, at Banja Luka and Sarajevo, with members of the press. She hopes to pursue these exchanges in the future, to attempt to develop strategies in cooperation with local journalists for ensuring the democratic ideal of the free expression of opinion.

142. The Special Rapporteur wishes to reiterate her particular concern about the "silent emergencies" of Bosnia and Herzegovina, and indeed of the whole of the former Yugoslavia. Amidst all the political commotion of the region there are people suffering quietly but profoundly; their human rights deserve attention as much as those of anyone else. They include, as noted earlier, some of the people the Special Rapporteur recently met in the territory, including mentally disabled people in an institution near Sarajevo and the people who cared for them throughout the war, and the victims of rape and their families.